

the news. Three days ago the word came out that the uninsured are at all-time lows in our country. Ninety-two percent of Americans have health insurance. Is that bad? Is the insurance perfect? Of course it is not. We have 19 States led by Republican Governors who refuse to accept Medicaid. The Republican Governor from Nevada made the right choice, and it has been good for the State of Nevada.

It is interesting that after more than 6 years, we still have never seen a plan by the Republicans and what they want to do other than vote against ObamaCare. ObamaCare has expanded coverage to millions of Americans. It has improved the quality of health insurance. A lot of people who don't like the plan don't like it because they don't think it is strong enough and they want to do more. The marketplace will continue to connect Americans to quality, affordable health insurance.

I thought Republicans believed in the free enterprise system, and that is what we have with ObamaCare. The health insurance marketplace is so much better than pre-Affordable Care Act. They should stop trying to repeal ObamaCare and work with us to improve what we have. It is not going to go away.

The Affordable Care Act has shown that it has had a positive impact on the stated goal of lowering the number of people without coverage. Millions of people have health insurance who didn't before. He and other Republicans continue to come down to the floor and complain, although not as often as they used to because they have been embarrassed too many times. The Republican leader seems to think that things were better before Americans had coverage, including the 500,000 people in Kentucky who now have insurance because of ObamaCare. I guess he seems to be saying that he liked it better when insurance companies could deny coverage for any reason that they thought was appropriate; it didn't have to be a good reason.

SUICIDE PREVENTION

Mr. REID. Mr. President, September 10 is World Suicide Prevention Day. I had occasion to visit with our former colleague, Gordon Smith, a tremendously good Senator from the State of Oregon, while I was in Las Vegas a couple of weeks ago. Even now we often speak—as we did in Las Vegas that evening—about our experience with those who have committed suicide. Gordon lost a son, I lost a father, and there are a small number of people here in this room today—if we could do an oral poll, we would find that many people in this room have been affected by suicide.

Think about it. Each year, about 33,000 people commit suicide. That is a lot of people. It took me a while to accept not feeling sorry for myself and to try to do something about it, and we

have done some things here as a body about suicide.

We really don't understand it very well. For example, most suicides occur in the western part of the United States. I would have thought just the opposite. The West has bright, sunshiny skies, and the weather is a lot better than places like New York, but for some reason, west of the Mississippi, we have a problem with suicide that doesn't occur in other places.

It is a national problem, and we have to do something about it. We have 33,000 people die every year, and those are the ones we know about. There are hunting accidents, car accidents, and hiking accidents that are really suicides but they are not acknowledged as such.

From 1999 through 2014, the suicide rate in the United States increased by 24 percent, both men and women of all ages. Women are now becoming more equal to men in killing themselves.

If we are going to actively address the increasing rate of suicides, we can't ignore the role firearms play. Guns are the most common device men turn to when they commit suicide. That is according to the CDC and not some left-wing group the Republicans like to harangue about. Almost 23,000 suicides were carried out with firearms in 2013—that is the last information that we have—which is 10 percent higher than 3 years earlier.

We don't really know what is happening in the military. Twenty-two people in the military will kill themselves today. It is mostly done after they have been honorably discharged from the military.

We need to invest in evidence-based prevention. Young people are killing themselves. One of my wonderful staff members, my chief of staff—she is such a dear friend—comes from a large family of 10 children. One of her brothers is a medical doctor with twins. One of them hanged himself—an 11-year-old boy, dead.

We have to have more science-based information, and we don't have it. Mr. President, 33,000 people are dying each year as a result of self-inflicted injuries.

I note with a degree of seriousness that September 10 is World Suicide Prevention Day. I hope we can all acknowledge this is something on which we need to work together. It is not a partisan issue; just ask Gordon Smith. It is not a partisan issue; just ask me. As I have indicated, many people who work in these wonderful buildings in the Capitol have been affected by suicide.

Will the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ROUNDS). Under the previous order, the leadership time is reserved.

WATER RESOURCES DEVELOPMENT ACT OF 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2848, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 2848) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Pending:

McConnell (for Inhofe) amendment No. 4979, in the nature of a substitute.

Inhofe amendment No. 4980 (to Amendment No. 4979), to make a technical correction.

The PRESIDING OFFICER. The Senator Alaska.

Mr. SULLIVAN. Mr. President, I wish to speak on the bill we are debating, the Water Resources Development Act. I will begin by commending the chairman of the EPW Committee, Senator INHOFE, and the ranking member, Senator BOXER, for their leadership on this legislation.

Sometimes it is important to just look at what these bills are doing. The Water Resources Development Act—WRDA, we call it here—the title says:

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

One of the things I have come to the floor of the Senate to speak on a number of times is one of the most important things I think we should be doing in the Senate, and that is focusing on our economy. With all due respect to the minority leader with regard to the economy in the United States, things are not going well. Just over the past two quarters, we again had numbers that were dismal by any historical measure in the United States. Last quarter, I think we had 1.5 percent GDP growth, and the quarter before that, we had 0.8 percent GDP growth. As a matter of fact, President Obama will be the first President in U.S. history who never hit 8 percent GDP growth in 1 year—never. No President has had such a dismal regard in terms of growing the economy.

What should we be doing? First of all, we need to focus on the economy. One of the critical things we should be doing in the Congress—one of the things we need to unleash to the private sector is better infrastructure for this country. Again, I commend the chairman of the EPW Committee and the ranking member because they have been leaders on this issue. Last year, we passed the first long-term highway bill in many years with the FAST Act. That is infrastructure for the country. Right now, hopefully, the Senate will pass the WRDA bill.

These aren't perfect pieces of legislation. No piece of legislation ever is. For example, I think both of them could

have had provisions that streamlined the permitting process to build bridges, roads, and ports. Right now in this country, it often takes years to cut through the redtape to get permission from the Federal Government to build infrastructure. We need to do a better job on that. But the FAST Act and now the WRDA bill are important bills. They are important bills to help us grow our economy, and that is why I am supporting the WRDA bill we are debating here on the floor.

There are many provisions in this bill that are going to benefit different parts of the country. It will certainly benefit the State of Alaska. We are a young State. We are infrastructure poor, for sure, in terms of roads, ports, and harbors.

One provision I wish to highlight is section 7106, the Small and Disadvantaged Communities Grant Program. This is a new program that I had the opportunity to work on with my team, Senator INHOFE's team, Senator BOXER's team, and Senator WICKER. We are all focused on this issue. It stemmed from an important topic we were discussing.

I know my colleague and friend, Senator PETERS from Michigan, is going to talk about Flint, MI, and what happened there and the topic of our aging infrastructure. I certainly respect his advocacy for his constituents on this topic.

We have been talking about our aging infrastructure, but one topic we didn't talk a lot about in the Senate—and I certainly tried to raise it a lot—is not just aging infrastructure, but how about the topic of no infrastructure for communities in the United States? I know a lot of Americans don't know this, but there are a lot of communities in our great Nation that have no clean water, no sewer, and no toilets that flush—entire communities in America. Think about that. They have no running water and no toilets that flush. They have what we call in Alaska honey buckets. Sounds sweet, of course, but it is not sweet; it is literally American citizens having to haul their own waste from their house to a lagoon and dump it there. Can you believe that in America we have entire communities—in my State over 30—that have that problem? What this causes is often very high rates of disease, such as skin disease, ear infections, and sometimes at third-world disease rates. Again, this is happening in America. I think it is unacceptable, and I think most of my colleagues believe it is unacceptable. It is not right.

That is where the new provision, the Small and Disadvantaged Communities Grant Program, comes in as part of this bill. It prioritizes assistance to small communities throughout our country that don't have basic drinking water or wastewater services. This is a 5-year program that is in the bill. It authorizes \$1.4 billion to address what I think the vast majority of Americans would agree is an unacceptable condi-

tion in certain communities throughout our great Nation. No American community should have to rely on honey buckets. No American community should have Third World disease rates because they don't have water and sewer.

So this WRDA bill is a serious start to address this issue. It is a significant challenge. It is not going to be addressed overnight, but I think everybody in this Senate can agree we shouldn't have communities of hundreds of people in our great Nation who don't have basic services that the vast majority of Americans take for granted and assume that every community in our great country has, but we don't.

This is a good start to do what one Governor of Alaska put out as a vision and a goal, which is to put the honey bucket in a museum, and that is what we are going to try to do beginning with this program.

I encourage my colleagues to support the WRDA bill that is being debated on the floor. I again wish to thank Chairman INHOFE and Senator BOXER for their leadership on this important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. PETERS. Mr. President, I rise to speak about the Water Resources Development Act, known as WRDA as well, which we are now considering and we expect to vote on next week.

This bill will significantly reduce the threat of lead exposure and other drinking water contamination for our communities across the United States, and it will invest in our aging water infrastructure. I am particularly pleased that language addressing the Flint water crisis—language I worked on with my colleagues Senator STABENOW, Senator INHOFE, Senator BOXER, and many others—is included in the WRDA bill before us. Their strong leadership has been invaluable, and I thank them for their efforts.

WRDA provides resources that will improve drinking water infrastructure in Flint, MI, and other places where pipes, pumps, and treatment plants are crumbling and are woefully out of date. This bill also funds health care programs for communities that have been affected by lead contamination. Also, all of the direct spending is fully paid for.

Crafting this bill has been a constructive process with input from many Senators. There are a number of new, smart policy changes that will vastly improve water quality and tackle accessibility challenges. For example, this bill delivers funding for programs that will reduce lead in drinking water, test for lead in schools and childcare facilities, and invest in new water technologies.

WRDA also authorizes over \$12 billion for 29 Corps of Engineers projects in 18 States. These projects invest in ports and inland waterways, flood control and hurricane protection, and the restoration of critical ecosystems.

This worthy bill has earned the endorsements from a long list of critical stakeholders, and I appreciate the bipartisan support that has made crafting and considering this bill such a collaborative process.

While floor time for this measure is certainly long overdue, what really matters now is that we have an agreement to move forward. This is a fantastic opportunity to help millions of people all across our great country.

We now have a pathway to success if we can move the final vote of this legislation next week. I urge my fellow Senators to show the American people we can continue to work together to address urgent needs across our country, invest in critical infrastructure, and deliver much needed—and fully paid for—support for Flint families.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. COONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MERRICK GARLAND

Mr. COONS. Mr. President, I rise because of three numbers—three simple but important numbers—100, 176, and 9. What do all of those have to do with the matter that I think should be before us today? Well, it has been 176 days since President Obama did his job under the Constitution and nominated Chief Judge Merrick Garland of the DC Circuit Court, a consensus candidate, to our Nation's highest Court following the untimely passing of Justice Scalia. We have, of course, 100 Senators whose challenge it is to find ways to work together across the aisle and do our job and make progress for our country. It has also been 100 years that the U.S. Senate has had a Judiciary Committee—a committee on which I have the honor of serving. In the 100 years we have had a Judiciary Committee in the U.S. Senate, we have never had this situation, where the President does his job under the Constitution and nominates an eminently qualified jurist and the Senate Judiciary Committee refuses—just refuses—to conduct a hearing, to give a vote, to bring it to the floor, and to offer a final vote.

Obviously, we have disagreements. We have disagreements in this body over principles and ideology. That is part of our job to come here representing our States and their different priorities and values. But to steadfastly refuse for 176 days to even convene a hearing, to even begin the process to allow the American people to have some insight into the quality and caliber of the man nominated by our President strikes me as an unprecedented refusal. It is the first time in a century that we have so blatantly had one group in this body refusing to proceed.

Our window for acting is closing because in just a few weeks, on October 3, the Supreme Court's new term begins. So the refusal to act and to fill the ninth vacant seat has now had a serious ongoing impact on one term of the Supreme Court and now soon on a second term of the Supreme Court. We have never had a Supreme Court vacancy go this long in modern history.

In terms of the qualifications of the candidate, let's just take a quick look at the public record so far.

A bipartisan group of former Solicitors General—the lawyers of the United States, the persons who represent the United States in court and often before the Supreme Court—including Paul Clement, Ted Olson, and Ken Starr, have endorsed Judge Garland as “superbly qualified,” having “demonstrated the temperament, intellect, and experience to serve” on the Supreme Court. This is not a sharply divisive nominee who is pursuing a particular ideological agenda. This is a well-regarded, well-respected, seasoned senior member of the Federal judiciary.

Top lawyers at 44 U.S. companies have written to the Senate calling Judge Garland “exceptionally well-qualified” and noting that a prolonged vacancy continues to leave important, even vital, business issues unresolved before the Court, giving them a lack of predictability and leading them to have to make decisions in the absence of clear guidance from the Court.

Just yesterday my colleagues and I joined some of Judge Garland's former law clerks in front of the Supreme Court. Sometimes when I have had the opportunity to review nominees for Federal judgeships, I like to hear from those who previously worked for them. In a letter to the Senate, a group of Judge Garland's former clerks noted that “Chief Judge Garland deeply believes that our system of justice works best when those who see things differently are able to work together, in a collegial manner, to arrive at a just result.”

Yesterday we heard again firsthand accounts from Judge Garland's clerks of his wisdom, mentorship, decency, and commitment to justice. I wish we could follow the same approach in the Senate that Judge Garland's clerks and other former coworkers said he followed in the Department of Justice, as a career prosecutor, and as a judge on the DC Circuit—an approach that focuses on collegiality and success.

I had the honor of meeting with Judge Garland on April 7. In addition to his truly impressive intellect and compelling and long judicial experience, our conversation revealed to me a person of real character, good judgment, deep sensitivity, and thoughtfulness. I wish I had the opportunity in front of a public hearing of the Judiciary Committee to ask him similar questions that would allow my constituents, the President's constituents, and other Members of this body to ask

and answer important questions before the American people, before a committee of this body, and before our colleagues so that we could do our job and move forward. Yet we haven't had this hearing—the hearing that the American people so need and deserve.

In May, my Democratic colleagues held a public meeting to try to further explore and air Judge Garland's background, where we heard from four esteemed, significant, and experienced individuals deeply familiar with Judge Garland's experience and character—a former court of appeals judge, a former U.S. attorney, a former Cabinet Secretary, and a U.S. law professor who clerked for Judge Garland. All four of them urged us to move forward and consider his nomination.

Of those four, Judge Lewis' testimony has particularly stuck with me. He was nominated by President George H.W. Bush in September of 1992, which, to the best of my recollection, was an election year. He was then confirmed by a Democratic-led Senate in October of 1992, less than a month before a hotly contested Presidential election. Judge Lewis previously came to testify in support of then-Judge Samuel Alito of the Third Circuit before his elevation to the Supreme Court. Judge Lewis warned us earlier this year in this meeting that what we are doing is not only deadlocking the Supreme Court, but it is diminishing it.

Our system of justice, our Federal courts, and our constitutional order are one of America's most precious assets. As a Member of the Foreign Relations Committee, I have the honor of traveling to other countries to represent our country, most often on bipartisan delegations, where we urge them to follow our model. Sadly, in too many countries I have visited, they cannot depend upon their judiciary to be truly independent, to enforce the rule of law, to issue judgments that are in keeping with their laws, traditions, or, most importantly, their constitution. That is why I am disappointed that we are engaging in this unprecedented refusal to follow the rules, to follow the process of the Constitution and the Senate and to give this important nominee a hearing. That is why I am disappointed by Leader MCCONNELL and Chairman GRASSLEY in their refusal to consider Judge Garland's qualifications. It is my hope they will reconsider.

In Chief Judge Garland's nomination, President Obama fulfilled one of his most important constitutional responsibilities. Now all 100 Senators, on this 176th day that we are waiting to fill this 9th vacancy on the Supreme Court, must do our job and provide appropriate advice and possibly consent to the President's nominee. The Senate has a valuable opportunity to show our constituents, the American people, and the world that even in the midst of a divisive Presidential campaign, our democratic and constitutional system still works. We cannot allow yearlong

Supreme Court vacancies to become routine, and I am deeply concerned about the manner in which the Senate is conducting itself and the possibility that this unprecedented inaction will set a precedent for future vacancies and send a signal to the world that our constitutional order cannot still function.

I remain hopeful that my colleagues will give serious thought to the systemic consequences of what we are doing through our refusal to even hold a hearing on Judge Garland. It is long past time to put the good of our Nation and the Constitution above the politics of the day and to get to work on this confirmation.

The PRESIDING OFFICER. The assistant Democratic leader.

NOMINATION OF MERRICK GARLAND

Mr. DURBIN. Mr. President, I would like to thank my colleague from Delaware for joining me yesterday on the steps of the Supreme Court. We had law clerks who had served Judge Garland over the years who spoke in glowing terms about the man's ability to serve. In fact, I have not heard any detractors or critics who have come forward to suggest that the President's nominee is not a serious candidate for this job and one who would fill it with great competence.

Here is the reality of what we face. This is the Executive Calendar, which is passed out every single day in the Senate. You will see it on the desks of many of my colleagues. In this publication are nominations pending before the Senate. There are 27 Federal judicial nominees whose nominations are pending before the Senate.

One nomination that might be of interest to those who are following this debate is a nomination that goes back to October of 2015 of Edward L. Stanton III, of Tennessee. Now, we know the way the process works is that Mr. Stanton's name would not be on the calendar to be considered by the Senate were it not for the support of both Senators from Tennessee—in this case, both Republican Senators of Tennessee. So we have a nomination to fill a vacancy on a Federal district court of Tennessee that has been approved by both Republican Senators and reported out of the Senate Judiciary Committee in October of last year—almost 1 year ago.

Obviously, a question must be raised. What is wrong with Mr. Stanton? What did he do? How did he get approved by both Senators and out of committee only to be sitting on the calendar for a year? What he did was he ran into a concerted, deliberate plan by Senate Republicans to stop filling judicial vacancies under President Barack Obama. There are 26 like him who have been reported from the committee and sent to the calendar.

Listen, here is the interesting part. Senator GRASSLEY, the chairman of the Senate Judiciary Committee, has called a special meeting of the committee today to take place right after

the first vote, right off the floor here. To do what? To add five more names to the calendar—five more nominees to the calendar. Why? Is there going to be one magic day when all 32 are going to fly out of the Senate by a handful of votes?

Well, nobody said that is going to happen. Unfortunately, it means that for each of these nominees—starting with Mr. Stanton, 1 year ago—their lives are going to be on hold. They made a good-faith effort to step forward to serve the United States of America in the Federal judiciary. They submitted themselves to elaborate background checks by the FBI and other agencies, and then, when reported by the White House, they went through further background checks by the staff of the Senate Judiciary Committee.

Each of these individuals went through a hearing where, under oath, they were asked questions. Each of them, in many instances, was asked to present additional support materials for their nomination. They did it all. They did everything that was asked of them, and they sit on the calendar. What is this all about?

Well, I would say Senator MCCONNELL and Senate Republicans are not very veiled in concealing their strategy. They don't want a Democratic President to fill a vacancy on the Federal bench, despite the fact that the people of the United States chose President Barack Obama by an overwhelming margin, despite the fact that he continues to have the powers of office. They want to thwart and stop that authority of the President to fill Federal judicial vacancies. Their hope is that their favorite candidate, their beloved nominee Donald Trump, will pick the next set of Federal judges. Can you imagine?

What really is behind this is not just to give Mr. Trump his moment to pick the nominees and make nominations to pick the future members of the judiciary but really to serve a specific political agenda. The Senate Republicans are afraid of what would happen to a Federal court system if independent jurists served. They want their friends instead. They want those who will lean in their direction when it comes to the important issues of corporate interests, Wall Street banks, and the Koch brothers. The courts mean an awful lot to companies and wealthy people, and they want to make sure the right people are sitting there making decisions when it comes to the future.

So 27 nominees sit on the Senate calendar, and the Senate Republicans refuse to call them for a vote. Senator GRASSLEY on the Senate Judiciary Committee wants to add five more to the list today. Why? Why are we doing this to these poor people, putting them through this charade of nomination when there is no intention to fill the vacancy? Incidentally, among the vacancies currently pending on the Federal judiciary—we are now up to 90 va-

cancies across the United States—a third of them are in emergency situations, which means that the courts cannot properly function because of the vacancies on the Federal bench. Despite this, the Senate Republicans refuse, being in control of the Senate, to call these names for consideration. They know they will pass. They are not controversial. They went through the committee, and they languish on the calendar because of this political decision.

I wish that were the worst example, but it is not. The worst example relates to the 176 days pending since the nomination of Judge Merrick Garland, chief judge of the U.S. Court of Appeals for the District of Columbia Circuit. He has had his name before the Senate in nomination and has not been called for a hearing or a vote.

Each of us, when we become a Senator, walks down this aisle and over to the side where the Vice President of the United States administers an oath of office. We don't take oaths lightly. For most of us, there are only a handful of moments in our lifetime where we raise our hand and swear that we are going to do certain things. In this case, we stand there in the well of the Senate and swear to uphold the Constitution of the United States of America. You might think it is a formal declaration—and it is—but it is also a meaningful declaration. This country was riven and also destroyed because of a dispute over our Constitution which led to a civil war. So we make certain, if you walk down this aisle and put up your hand over there, one hand on the Bible, one hand reaching to the heavens, taking an oath to uphold the Constitution, we are serious about it.

Yet, when it comes to filling this Supreme Court vacancy, the Constitution is explicit about our responsibility in the Senate. Article II, section 2, speaks to the President's constitutional responsibility—responsibility—to fill vacancies on the U.S. Supreme Court. Why did the Founding Fathers make it a responsibility and a mandate? Because they knew what would happen if vacancies on the Court could be used for political purposes, if leaving slots vacant on the Court advantaged one political party or the other.

So they came forward and said: It is all about a full set of Justices and the President's responsibility to nominate those who would fill the vacancies. The death of Antonin Scalia created a vacancy. The Court across the street now has eight Justices. They have already been hamstrung by the fact that one Justice is missing and they were unable to reach a decision in critical cases.

So the President met his responsibility 176 days ago and sent the nomination of Merrick Garland to be considered by the Senate. I don't use this term loosely. I have looked it up. I have researched it. I want to say explicitly, the Senate of the United States of America has never, never in

its history since the Judiciary Committee has been in business, never once refused a Presidential nominee a hearing. It has never happened.

Oh, I know, some of my critics on the other side will say: Well, if the shoe were on the other foot, if it were a Democratic Congress and a Republican lameduck President, you would do the same. Wrong. In recent memory, in recent history, when President Ronald Reagan was in the last year of his term and there was a vacancy on the Supreme Court, he sent the nomination of Anthony Kennedy to a Democratic-controlled Senate, and instead of refusing to do our job, the Democratic Senate approved Justice Anthony Kennedy, the Reagan nominee, in the last year of the Reagan Presidency.

But Senator MITCH MCCONNELL and the Senate Republicans have said no. No, we are just not going to do it. We don't care if the Constitution requires it. We don't care if we have taken an oath to live up to the Constitution. We don't care if it has never been done before in the history of the Senate. We are going to stop this President from filling this Supreme Court vacancy because our friends, our special interest groups, corporate interests, Wall Street banks, and the Koch brothers, don't want to see an Obama nominee filling this vacancy.

It is a shame. Merrick Garland is an extraordinarily gifted jurist. He is a son of Illinois—maybe I come to it with some prejudice—born in Chicago, raised in Lincolnwood, valedictorian of his high school, Niles West. He recently gave a graduation speech to that school.

His father ran a small business. His mother worked as the director of volunteer services at Chicago's Council for Jewish Elderly. Judge Merrick Garland is an intelligent man. He earned his undergraduate and law degrees from Harvard, clerked for distinguished jurists Henry Friendly and William Brennan. He spent years in public service as a prosecutor at the Department of Justice. He led the investigation of the 1995 Oklahoma City bombing. He served as a judge on the DC Circuit since 1997. Incidentally, he was confirmed by the Senate with a broad bipartisan vote for that position.

Throughout his career, he has won praise from across the political spectrum for his fairness, his brilliance, his work ethic, and his judgment. The American Bar Association took a look at this nominee and said: He is unanimously "well qualified" to serve on the Supreme Court—unanimously. This is a man who has given decades of his life to public service, and the Senate Republicans will not even give him a hearing. They will not give him a moment under oath to answer questions.

The way the Senate Republican majority has handled this Supreme Court vacancy is shameful. Since Justice Antonin Scalia's untimely passing last February, the Supreme Court has had to operate with eight Justices. As

President Ronald Reagan said back in 1987, “Every day that passes with the Supreme Court below full strength impairs the people’s business in that crucially important body.”

During the last Supreme Court term, the Court was unable to reach a final decision on the merits seven times because the Justices were deadlocked 4 to 4. Major legal questions have been left unresolved. On September 26, the Court will hold its first conference of its new term, still with only eight Justices, though the Senate has had plenty of time to fill a vacancy, but the Senate Republicans have refused to do their job.

Unlike any other Senate in the history of the United States, in the history of this country, the Senate Republicans have refused a Presidential nominee to the Supreme Court a fair hearing—any hearing—and a vote. It is shameful. The Senate is now failing under the Constitution to do its job. The Senate Republicans, by design, are responsible.

Judge Garland, the Supreme Court, and the American people deserve better. The Senate should give Merrick Garland a hearing and a vote.

ZIKA VIRUS FUNDING

Mr. President, when they write the history of this Republican-controlled Senate, they will surely note that we are a little over 2 weeks away from a deadline, when we were supposed to have a budget and appropriations bills, and we don’t have them.

That has happened before. It is not the first time in recent memory. We have been tied up in knots before, but that is a reality. Despite promises to the contrary, we have not passed an appropriations bill. I might say in fairness, in defense, of the Senate Appropriations Committee and the Republican chairman, THAD COCHRAN, as well as the ranking Democrat, BARBARA MIKULSKI, we did our job.

We held hearings on the important bills. They are ready for consideration on the floor. What has stopped their consideration is the Republican House of Representatives and Senator MCCONNELL. The Republicans in the House just cannot reach an agreement. That is why John Boehner left. That is why PAUL RYAN’s hair is turning gray, trying to deal with a handful of tea party Republicans who would rather see the whole Congress grind to a halt and the government shut down.

So when it comes to passing appropriations and spending bills, there is not much to brag about on the Republican side of the aisle. When it comes to the Zika virus in February, President Obama said: Be careful. We have a public health crisis looming. This mosquito we have discovered can cause extraordinary damage to pregnant women and to the babies they carry.

So he asked us, in February of this year, 7 months ago, he asked us for \$1.8 billion so they could stop the spread of this mosquito virus and start the research for a vaccine to protect every-

one. He said it was an emergency. Obviously, the Senate Republicans did not care. In May, we finally reached an agreement to a reduced amount, \$1.1 billion, passed it out of the Senate. I believe the vote was 89 to 8, a strong bipartisan rollcall.

Many of us breathed a sigh of relief. It was before the mosquito season really got in full force in most of the country. It looked like we were going to respond to the President’s call for emergency funding. Then what happened? It went over to the House of Representatives, and instead of taking the clean, bipartisan bill that passed the Senate, no, they decided they would embellish it with political poison pill riders. Listen to one of them. They said women who were concerned about family planning and their pregnancies because of this issue could not seek family counseling and women’s health care at Planned Parenthood clinics. Two million American women used those clinics last year. The Republicans are now saying: Sorry. As important and popular as they may be, we are going to prohibit any money being spent for women to turn to these clinics for family planning advice because of the Zika virus.

They went further. They took \$500 million out of the Veterans’ Administration that was going to be used to process claims to get rid of the backlog. No, they will take \$500 million away from that and put it into the Zika virus. Then, to add insult to injury, the Republicans in the House insisted on a provision that would allow them to display the Confederate flag at U.S. military cemeteries.

What we had was a simple, straightforward, clean bill to deal with the public health crisis turned into a political grab bag. They sent it over here knowing it would fall and it did, repeatedly.

Now the question is, whether Senator MCCONNELL and Senate Republicans will follow the lead of House Republican Members who are telling them: Enough. Members from Florida—Congressman YOHO, for example—a Republican Member says: Let’s clean up this bill and do something about Zika. Why is he saying that? Because the Centers for Disease Control has done something extraordinary, something I don’t think has ever been done before. They have warned Americans not to travel to parts of the United States, certain sections of Florida, where the Zika mosquito is showing up.

Congressmen from Florida, including Republicans, have said: Enough of the political games. Pass the clean bill funding Zika. Senate Republicans refuse. They will not move forward on it. We are stuck, stuck with the situation that we can cure and should cure on a bipartisan basis.

My colleagues from Louisiana come to tell us about the terrible devastation that has taken place in their State because of the flooding, national disaster, loss of life, damage to property.

It is not the first time we have had a situation this serious—Katrina and others come to mind—but it is a reminder, when it comes to natural disasters or public health disasters, for goodness’ sake, isn’t that where politics should end and people should, on a bipartisan basis, set out to solve a problem instead of create a problem?

So now it is up to Speaker RYAN and it is up to Senator MCCONNELL to show real leadership in the Senate. I know they are not going to back off on these judges. They have dug in real hard on those, but I would hope, when it comes to passing spending bills in a sensible fashion and funding our efforts to stop the spread of this Zika virus, that we will do something meaningful.

They estimate, by the end of this year, one out of four people in Puerto Rico will have been infected by this virus. By the end of next year, it will be closer to 90 percent. It is a serious public health crisis. It is one we need to do something about. Ultimately, we need a vaccine. The Centers for Disease Control announced this week that they brought to a halt their efforts. They have run out of money. Now it is up to Congress. It is up to the Senate. It is up to the Republican leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

FILLING THE SUPREME COURT VACANCY

Ms. KLOBUCHAR. Mr. President, I come to the floor once again on the topic of the vacant seat on our Supreme Court. I would also echo Senators DURBIN’s comments about the need to move immediately on the funding on Zika. We of course passed something here that had clear bipartisan support. Now we wait to get this done again and to not politicize this incredible public health threat.

Today I am focusing my remarks on the damage to our system of governance that is being done by leaving a seat open on our Nation’s highest Court. For years, we have seen some fraying of our democracy, the polarization, but the citizens of America have always believed in an independent Supreme Court. We have seen some political creep, as we know, into our judicial selection process. Nonetheless, the citizens of America have respected the rule of law. They continue to do that.

When our Founding Fathers sat down to sketch out the framework of our Nation, they did not issue decrees. No, they set up a system of governance with three equal branches. The Federalist Papers outline this balance of power in detail. Alexander Hamilton once wrote about this balance. He wrote:

The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior. . . . They are means, and powerful means, by which the excellences of republican government may be retained and its imperfections lessened or avoided.

Well, that is not going to happen if we have a Court that cannot fully function. We have, in the most recent term, less cases brought up before the Court because we don't have a full composite of Justices. We have had split decisions. Think back in time. What if we only had eight Justices and a 4-to-4 decision on *Bush v. Gore* or in the *Miranda* case or *Brown v. Board of Education*?

Actually, an interesting fact is, the *Brown* decision may not have happened if it were not for the swift filling of a Supreme Court vacancy. Chief Justice Vincent died just before the reargument of the case. By most accounts, the eight-person Court was split on the issue. Had this Senate refused to give Earl Warren a hearing and a vote, we would not have had the decision, but the Senate allowed for a vote and Chief Justice Warren was confirmed, the *Brown* decision was handed down, and our Nation has seen great progress toward equality as a result of that decision.

In fact, the process in the Senate for the last 100 years is that the Judiciary Committee holds hearings. In the few instances where they have not, that is because those nominees were confirmed in 11 days or less. Since 1916, every nominee has been handled in that fashion. Justice Kagan has said the current Justices on the Court are doing everything they can to build a consensus and avoid a 4-to-4 split. While I appreciate that effort, that is just not how it is supposed to work. We want laws to rise or fall because the Supreme Court has decided them, not because of a 4-to-4 split.

Look at the nominee we have. He is someone who has had broad support on both sides of the aisle. Senator HATCH once came before this body and said he challenged everyone to come to the floor to say something negative about Judge Garland. Judge Garland oversaw both the Oklahoma City bombing case and the Unabomber case at nearly the same time. He earned a 76-to-23 vote in this Chamber for his last job, and he is someone who has routinely received positive comments from judges and commentators from the other side of the aisle who basically have acknowledged he is someone who looks for that common ground.

I have no doubt he would excel in his hearing, but right now we are not going to know that.

I just ask my colleagues: What are they afraid of? Are they afraid the citizens of America will be able to see this fine judge and how smart he is or how he answers questions? As my friend Senator ANGUS KING has said, are they afraid they would like him too much?

I do not understand why we simply cannot have a hearing. I had to put myself—I think, well, what would happen if we had a Republican President and a Democratic Senate, what would I do? I have clearly thought this through, as a lawyer and as someone who is a member of the Judiciary Com-

mittee, and know I would say we have to have a hearing because the Constitution says our duty is to advise and consent. It doesn't say advise and consent after a Presidential election or whenever it is convenient. It says advise and consent.

I am hopeful my colleagues are listening to us, that they will find it within themselves to allow this great judge, this great jurist a hearing. I was there in the Rose Garden when President Obama nominated him. I saw him tear up, and I thought to myself, not only is this a monumental moment in his own life, to be nominated for the highest Court of the land, but perhaps he was tearing up because he knew the burden he was carrying, one man, on his shoulders, the burden of carrying forward the American tradition of an independent judiciary, this simple concept that politics isn't supposed to dictate our processes, that our Founding Fathers set out three co-equal branches of government. Our job in the Senate is to make sure the judiciary is funded so it can function, our job is to pass laws they then look at and apply when there are questions about those laws, and our job is to advise and consent on nominees to the Federal judiciary.

So let's get our act together and do our job.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO PATTY WETTERLING

Ms. KLOBUCHAR. Mr. President, I wish to take just a few minutes to give a brief tribute to someone I know well, Patty Wetterling, and to her family. They are longtime Minnesota residents. Patty and I know each other well. We actually ran against each other for the Senate in 2005, and out of that experience we came to be very good friends.

Patty Wetterling is a woman of unbelievable courage. Her son Jacob was kidnapped at gunpoint 27 years ago. All that time she has kept the hope alive that he would be found. She knew it was a small hope, but, as we know, there have been cases in America where missing children are found 10 years, 20 years later, and that is what she was hoping for.

This past week, those dreams were dashed, as a very evil man came forward to law enforcement—he was already in captivity—and admitted to this crime and brought law enforcement to Jacob's remains.

The story, which I will not put on the record, is a horrific one, but I think the most poignant moment in this horrible story were Jacob's last words, which were: What did I do wrong?

This little boy did nothing wrong. He was an 11-year-old riding his bicycle in his town, in a very rural part of Stearns County, MN, where things are supposed to be safe. Well, they weren't safe that day. The amazing part of this story is not only the memory of this little boy, but it is how for years Patty Wetterling and her family have turned their grief into action.

Understandably, many people try to hang tight to their family. She has done that. She has been a great mom, but she went beyond that. She served on the board of directors of the National Center for Missing and Exploited Children. She has been a nationally recognized educator on child abduction and the sexual exploitation of children. She and her husband cofounded the Jacob Wetterling Resource Center to educate communities about child safety issues and to prevent child exploitation and abduction. She served for more than 7 years as director of the Sexual Violence Prevention Program for the Minnesota Department of Health. She was named one of the "100 Most Influential Minnesotans of the Century" by one of our newspapers.

She has kept this hope alive, but what is amazing about it is, she has saved other lives. A number of bills, legislation—including the sexual predator registration—have come out of the work, better collaboration between local and Federal law enforcement. She has saved so many lives in Jacob's memory.

Senator FRANKEN and I are going to be putting a resolution on the record today on this topic, but I just wanted to take a moment personally to recognize Patty for her strength, her courage, and her grace.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RUBIO). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 1:45 p.m. today the Senate proceed to executive session for the consideration of Calendar No. 685; that the Senate vote on the nomination without intervening action or debate; that, if confirmed, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action and the Senate then resume legislative session without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRUZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING PHYLLIS SCHLAFLY

Mr. CRUZ. Mr. President, I rise to honor the first lady of the conservative movement. On Sunday, surrounded by her loving family, Phyllis Schlafly passed away. Few will ever match Phyllis's conviction and tenacity. She literally stood on the frontlines, fighting against forces that threatened to upend families and sought to undermine the Judeo-Christian values upon which our great Nation was founded.

Without question, Phyllis Schlafly loved America. Her contributions to our country went far beyond her work exposing the illogic of liberalism. Phyllis led the charge to make the Republican Party pro-life and defended the sanctity of marriage. She was a passionate defender of U.S. sovereignty and championed Reagan's policy of "peace through strength" during a crucial time in American history. The women and men of Eagle Forum, which she founded, are incredible patriots and grassroots activists who today, along with all of us, are mourning Phyllis's passing.

Our Nation continues to face many dangers, both foreign and domestic, and we need more individuals, more leaders such as Mrs. Schlafly, who are not afraid to stand and fight for the freedoms so richly bestowed upon us by our Creator. May she rest in peace.

THE INTERNET

Mr. President, today our country faces a threat to the Internet as we know it. In 22 short days, if Congress fails to act, the Obama administration intends to give away control of the Internet to an international body akin to the United Nations.

I rise to discuss the significant, irreparable damage this proposed Internet giveaway could wreak not only on our Nation but on free speech across the world. So today I urge my colleagues on both sides of the aisle to join me, along with Senators LANKFORD and LEE, along with the Presiding Officer and his leadership, along with Congressman SEAN DUFFY to stop the Obama administration from relinquishing U.S. control of the Internet.

Many have stood with us in both Chambers, and we are very grateful for Senators THUNE, GRASSLEY, BURR, COTTON, SASSE, MORAN, SESSIONS, and RUBIO, along with a number of our colleagues in the House, including Congresswoman BLACKBURN and Congressmen DUFFY, BARTON, BRADY, BURGESS, CULBERSON, and FLORES. And I urge even more of my colleagues to come together and stand united to stop the Obama administration's Internet giveaway.

The Internet has been one of those transformational inventions that has changed how we communicate, how we

do commerce, how we live our lives. For many, especially young people, it is hard to even imagine life before the Internet. Look at what the Internet has done. It has created an oasis of freedom for billions around the world.

One of the great problems with someone trying to start a business is what is known as the barrier to entry. What the Internet has done is dramatically reduce the barriers to entry for anyone who wants to be an entrepreneur. If you are a man or a woman or even a boy or a girl somewhere across the country or around the world and you have an idea, a service you want to sell or a good you want to make, you can put up a Web site, and instantly you have international marketing capacity. You have a portal to communicate with people. Anyone can go online and order whatever your good or service is. And between that and FedEx or UPS, you can ship it anywhere in the world. That is an extraordinary and transformational ability.

That freedom of the Internet—that you don't have to go and get anybody's approval; you don't have to go to a board for business authorization if you want to create a new business—is democratizing in that effect. The Internet empowers those with nothing but hope and a dream to be able to achieve those ambitions.

Right now the proposal of the Obama administration to give away control of the Internet poses a significant threat to our freedom, and it is one many Americans don't know about. It is scheduled to go into effect on September 30, 2016—22 days away, just over 3 weeks.

What does it mean to give away control of the Internet? From the very first days of the Internet, when it was developed here in America, the U.S. Government has maintained its core functions to ensure equal access to everyone, with no censorship. The government role isn't to monitor what we say or censor what we say; it is simply to ensure that it works—that when you type in a Web site, it actually goes to that Web site and not somewhere else. Yet that can change.

The Obama administration is, instead, pushing through a radical proposal to take control of Internet domain names and give it to an international organization—ICANN—which includes 162 foreign countries. If that proposal goes through, it will empower countries like Russia, like China, like Iran to be able to censor speech on the Internet—your speech. Countries like Russia and China and Iran are not our friends, and their interests are not our interests.

Imagine searching the Internet and instead of seeing your standard search results, you see a disclaimer that the information you were searching for is censored—that it is not consistent with the standards of this new international body and does not meet their approval. If you are in China, that situation could well come with the threat of ar-

rest for daring to merely search for such a thing that didn't meet the approval of the censors. Thankfully, that doesn't happen in America. But giving control of the Internet to an international body with Russia and China and Iran having power over it could lead to precisely that threat. And it is going to take Congress, acting affirmatively, to stop this.

If we look at the influence of foreign governments within ICANN, it should give us greater and greater concern. For example, ICANN's former CEO, Fadi Chehade, left ICANN to lead a high-level working group for China's World Internet Conference. Mr. Chehade's decision to use his insider knowledge of how ICANN operates to help the Chinese Government and their conference is more than a little concerning. This is the person who was leading ICANN—the body we are being told to trust with our freedoms. Yet this man has gone to work for the China Internet conference, which has rightly been criticized for banning members of the press, such as the New York Times and the Washington Post.

Even reporters we may fundamentally disagree with have a right to report and to say what they believe. Yet the World Internet Conference banned them. They said "We do not want these reporters here," presumably because they don't like what they are saying. That led Reporters Without Borders to demand an international boycott of the conference, calling China the "enemy of the Internet."

If China is the enemy of the Internet, do we want the enemy of the Internet having power over what we are allowed to say, what we are allowed to search for, what we are allowed to read online? Do we want China and Russia and Iran having the power to determine that if a Web site is unacceptable, it is taken down?

I would note that once this transition happens, there are serious indications that ICANN intends to seek to flee U.S. jurisdiction and to flee U.S. laws. Indeed, earlier this summer ICANN held a global conference in Finland in which jurisdiction shopping was part of their agenda—trying to figure out which jurisdiction they should base control of the Internet out of around the globe. A representative of Iran is already on record stating: "[W]e should not take it [for] granted that jurisdiction is already agreed to be totally based on U.S. law."

Our enemies are not hiding what they intend to do. Not only is there a concern of censorship and foreign jurisdiction stripping U.S. law from authority over the Internet, there are also real national security concerns. Congress has received no assurances from the Obama administration that the U.S. Government will continue to have exclusive ownership and control of the dot-gov and dot-mil top-level domains in perpetuity, which are vital to our national security. The Department of Defense, the Army, the Navy, the Air

Force and the Marines all use the dot-mil top-level domain. The White House, the CIA, the FBI, the Department of Homeland Security all use dot-gov.

The only assurance ICANN has provided the Federal Government regarding dot-gov and dot-mil is that ICANN will notify the government in the future if it decides to give dot-gov or dot-mil to another entity. So if someone is going to the IRS—or what you think is the IRS—and your comfort is that it is on a dot-gov Web site so you know it must be safe, you may instead find yourself victim of a foreign scam, a phishing scam or some other means of fraud, with no basic protections.

Congress should not sit by and let this happen. Congress must not sit by and let censorship happen. Some defenders of the Obama proposal say: This is not about censorship; it is about handing control to a multistakeholder unit. They would never dream of censoring content on the Internet.

Well, recently, leading technology companies in the United States—Facebook, YouTube, Twitter, and Microsoft reached an agreement with the European Union to remove “hate speech” from their online platforms within 24 hours. Giant U.S. corporations are signing on with the government to say: We are going to help you censor speech that is deemed unacceptable.

By the way, we have seen that the definition of “hate speech” can be very malleable, depending upon what norms are trying to be enforced. For example, the Human Rights Campaign, which is active within ICANN, has featured the Family Research Institute, the National Corporation for Marriage, the American Center for Law and Justice, and other conservative and religious groups in a report entitled “The Export of Hate.”

We are facing the real possibility of an international body having the ability to censor political speech if it is contrary to the norms they intend to enforce. In their view it is hate to express a view different from whatever prevailing orthodoxy is being enforced.

It is one thing dealing with government organizations that try to stifle speech. That is profoundly inconsistent with who we are as Americans. But to hand over control of the Internet and to potentially muzzle everybody on the Internet is to ensure that what you say is only consistent with whatever is approved by the powers that be, and that ought to frighten everyone.

There is something we can do about that. Along with Congressman SEAN DUFFY in the House, I have introduced the Protecting Internet Freedom Act, which, if enacted, will stop the Internet transition and it will also ensure the U.S. Government keeps exclusive ownership and control of the dot-gov and dot-mil top-level domains. Our legislation is supported by 17 key groups around the country—advocacy groups, consumer groups—and it also has the

formal endorsement of the House Freedom Caucus.

This should be an issue that brings us all together—Republicans, Democrats—all of us coming together. There are partisan issues that divide us. There always will be. We can have Republicans and Democrats argue until the cows come home about the top marginal tax rate, and that is a good and healthy debate to have. But when it comes to the Internet, when it comes to basic principles of freedom—letting people speak online without being censored—that ought to bring every one of us together.

As Members of the legislative branch, Congress should stand united to rein in this President, to protect the constitutional authority expressly given to Congress to control disposition of property of the United States. To put the matter very simply: The Obama administration does not have the authorization of Congress, and yet they are endeavoring to give away this valuable, critical property—to give it away with no authorization of law.

I would note that the government employees doing so are doing so in violation of Federal law, and they risk personal liability in going forward contrary to law. That ought to trouble all of us. Who in their right mind looks at the Internet and says: You know what we need? We need Russia to have more control over this. What is the thought process behind this, and what does it gain? What does it gain? When you look at the Internet, the Internet is working. The Internet works just fine. It lets us speak, it lets us operate, and it lets us engage in commerce. Why would this administration risk giving it up?

Mr. President, when you and I were children, Jimmy Carter gave away the Panama Canal. He gave it away, even though Americans had built it. Americans had died building the Panama Canal, but he nonetheless gave it away. For some reason President Obama seems to want to embody the spirit of Jimmy Carter, and instead of giving away the Panama Canal, he wants to give away the Internet. We shouldn't let him.

The U.S. Constitution prohibits transferring government property to anyone without the authorization of Congress. Article IV, Section 3 of the Constitution explicitly requires congressional authorization.

For several years now, Congress has also prohibited the administration from using any funds to “relinquish” control of the Internet. Yet, in typical lawless fashion, the Department of Commerce has been racing to prepare to relinquish control by September 30—directly violating Federal law and using taxpayer funding to do so. The administration's continued contempt for the law and the Constitution, while, sadly, not surprising anymore, is particularly dangerous here, as it is contempt in service of undermining Internet freedom for billions of people across the world.

With the Federal Government maintaining supervision over ICANN and domain names, it means the First Amendment is protected. Other countries don't have First Amendment protections. Other countries don't protect free speech the way America does. And America does that for the world, protecting free speech on the Internet by preventing the government from engaging in censorship. We shouldn't muck it up.

If the Obama administration jams this through, hands control of the Internet over to this international organization, this United Nations-like unaccountable group, and they take it overseas, it is not like the next President can magically snap his or her fingers and bring it back. Unscrambling those eggs may well not be possible. I suspect that is why the Obama administration is trying to jam it through on September 30—to get it done in a way that the next President can't undo it, that the Internet is lost for generations to come.

To stop the giveaway of our Internet freedom, Congress should act by continuing and by strengthening the appropriations rider in the continuing resolution we will be considering this month and by preventing the Obama administration from giving away control of the Internet.

Next week I will be chairing a hearing on the harms to our freedom that come from the Obama administration's proposal to give away the Internet. President Ronald Reagan stated:

Freedom is never more than one generation away from extinction. We didn't pass it on to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same, or one day we will spend our sunset years telling our children and our children's children what it was once like in the United States when men were free.

I don't want us to have to tell our children and our children's children what it was once like when the Internet wasn't censored, wasn't in the control of foreign governments. I urge my colleagues on both sides of the aisle to come together, to stand together and ensure that we protect freedom of the Internet for generations to come. It is not too late to act. And I am encouraged by the leadership of Members of both Houses of Congress who stand up and protect the freedom of the Internet going forward.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ITT TECH AND THE GI BILL

Mr. CARPER. Mr. President, here in this Chamber and in this country of ours, we often talk about the dream of

a college education. A college education opens doors, leads to a higher quality of life. A college education can boost our wages and our incomes. A college education is a first-class ticket to the middle class.

We often talk about the young people in our communities who have made that dream a reality, and they may not have come from much. Their parents saved what they could. In many cases, they are the first in their family to go to college. They took out loans, they worked nights in many cases and on weekends, they hit the books. In many cases, they graduated with honors. They got good-paying jobs. They raised a family, and they planned to send their kids to college too. That is the dream we talk about, but for too many students across our country today, the dream of a college education has turned into a nightmare.

I learned this week that 45,000 college students who were enrolled at a school called ITT Tech awoke and learned that their college was closed—not for a snow day, not for a holiday; ITT Tech closed its doors for good after years of questionable business practices and financial woes. Many of these 45,000 students are living a nightmare this week. They are scrambling to transfer to another school. They are hoping their credits will count elsewhere so they don't have to start over again. They are scrambling to find out if they are eligible for debt forgiveness on their student loans.

I rise today, though, to talk about a particular group of students who have been harmed by the sudden closure of ITT Tech—our Nation's veterans and their families. Until this week, there were nearly 7,000 veterans enrolled at ITT Tech, using the post-9/11 GI bill to help finance their education. As a veteran myself of the Vietnam war, I know what it is to be eligible for the GI bill, which I and my generation were. While it was not as generous as this one today, nonetheless, it was a great lifesaver for me and a lot of other folks with whom I served. But the post-9/11 GI bill, while generous, is a finite benefit. It provides up to 36 months of tuition and housing benefits for veterans as well as members of their family. If the veteran doesn't use their benefit, their spouse can. If their spouse doesn't use the benefit, their dependent children may. It is an incredible benefit. But veteran students at ITT Tech have no recourse to get those GI tuition benefits back to put toward their studies at another college.

The housing allowance that our veterans' families have spent will come to an abrupt halt because they are no longer enrolled in classes. They have been robbed of their time and their hard-earned benefits, and, frankly, taxpayers have been robbed of their tax dollars.

When I think about the men and women who volunteer to serve our country during a time of war, it is unfathomable that this is the position

in which we could leave them—at a defunct college, without a plan to help them get their benefits back, and without a way to pay their rent or their mortgage next month. I think it is shameful. I also think enough is enough. Congress must act to protect our veterans in this instance, as we do in so many others.

I don't believe that all for-profit schools are bad actors. They aren't. Some do a good job. But the poor educational employment outcomes for students across this sector are undeniable. The damage ITT Tech has inflicted upon students and taxpayers is undeniable. Let's take a moment and look at the facts.

ITT Tech is facing lawsuits by the Consumer Financial Protection Bureau, the Securities and Exchange Commission, and multiple State attorneys general for illegal loan schemes, deceiving shareholders, and for deceptive recruiting.

ITT Tech's accreditor recently found that the school "is not in compliance, and is unlikely to become in compliance" with accrediting standards. ITT Tech's closure leaves taxpayers on the hook for a half billion dollars in closed school loan discharges—half a billion dollars.

ITT Tech is one of the top recipients of post-9/11 GI bill dollars since 2009. ITT Tech did not use this massive taxpayer investment to provide a high-quality education to too many veterans. They used it for recruitment, they used those dollars for advertising and ultimately for profit.

ITT Tech failed veterans and taxpayers for years. When they closed their doors this week, they left taxpayers and veterans and their families in the lurch. It is shameful. Again, enough is enough.

The Department of Veterans Affairs must now work closely with the Department of Education to ensure that ITT Tech's student veterans have the resources and guidance they need to transfer and continue their studies at a high-quality institution of higher learning. We in Congress have work to do too. I believe we have a particular responsibility to hold bad actors accountable and increase protection for veterans who plan on enrolling at for-profit schools that are under investigation and heading for bankruptcy.

For-profit schools, such as ITT Tech and Corinthian Colleges, which also suddenly collapsed last year, target veterans for their generous benefits that we as taxpayers provide for them, and those schools exploit something called the 90-10 loophole that allows for-profit schools to be 100 percent reliant on Federal taxpayer dollars—100 percent.

Congress can take meaningful steps to protect veterans and their families, and chief among them would be closing this loophole. The 90-10 loophole has directly led to this ongoing nightmare for the student veterans at Corinthian, at ITT Tech, and at countless other

schools failing to deliver on the promise of a higher quality education.

In conclusion, Congress must act. We must act to restore the dream of a high-quality college education for our Nation's veterans. It is well past time to address this situation. Enough is enough.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, I rise today—

Mr. LEAHY. Mr. President, if the Senator will just yield for a moment.

Mr. HELLER. I will yield.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Could the Senator give me some idea how long he will be?

Mr. HELLER. About 5 minutes.

Mr. LEAHY. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, I rise in support of the Heller-Heinrich amendment No. 4981.

Mr. President, with your experience in the West, you know water is the lifeblood of our economy and culture. Without water, our communities cannot grow. Improving the rural water supply, their security, and economic development all goes hand in hand, which is why I have teamed up with my friend from New Mexico Senator HEINRICH to offer this western water amendment that will help ensure every drop of western water goes as far as it can.

Our amendment simply ensures that the U.S. Army Corps of Engineers implements its western water infrastructure program as Congress intended. It will help advance projects like storm and sewer systems, water treatment plants, and delivery projects in Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming.

It was first established in 1999. This program has been helpful to rural counties surrounded by Federal lands. Increasing the West's water security is essential to the long-term economic competitiveness.

I urge my colleagues to support this important bipartisan western initiative.

Mr. President, I want to change topics and talk about something that is important to all of us; that is, Lake Tahoe. Mark Twain once said: "The Lake had a bewilderingly richness about it that enchanted the eye and held it with the stronger fascination."

Over the past year and a half, I have worked with my good friend from Oklahoma, Environment and Public Works Chairman JIM INHOFE. I thank him for helping advance a longstanding priority of mine—the Lake Tahoe Restoration Act. This is a bill I championed in the House before I came to the Senate, and I am proud to be the lead sponsor of it in the Senate during the 114th Congress.

This bipartisan legislation, which has garnered the unanimous support of Nevada's congressional delegation and my

California colleagues Senators FEINSTEIN and BOXER, is focused on reducing wildlife threats, improving water quality and clarity, improving public land management, and combating invasive species. Specifically, this bill invests \$415 million into the Lake Tahoe Basin over the next 10 years. These important resources will address major issues that threaten the jewel of the Sierra's economic and ecological health. That includes: helping prevent and manage the introduction of the quagga mussel and other harmful invasive species; prioritizing the important fuel reduction projects that prevent catastrophic wildfire; and it advances storm water management and initiatives for transportation solutions that reduce congestion, minimize impact to the lake, and improve outdoor recreational activities.

Collaborative efforts between Nevada and California, like the Lake Tahoe Restoration Act, are prime examples of what can be accomplished when we set our minds toward a common goal. Here in the 114th Congress, the first where I have been the lead sponsor, we are closer to enactment than ever before. The bill has advanced through committee in both the House and Senate for the first time in the same Congress. When it passed the Environment and Public Works Committee, it garnered unanimous support among committee members for the first time. My hope is, when we finish consideration of this bill, the Lake Tahoe Restoration Act will have passed the full Senate for the first time in its legislative history.

Before I conclude, I thank the chairman for his leadership on infrastructure and for teaming up with our delegations to preserve this lake. I am appreciative that the Environment and Public Works Committee moved our bill through the process, both as a standalone bill and part of the water resources bill in the past year.

Like you, I know one of the core constitutional functions the Federal Government is creating is the infrastructure necessary to conduct commerce, trade, and allow for general transportation. Infrastructure development is one of my top priorities in Congress and has been a top priority of this Chamber's majority. It is important to note that we have successfully enacted important policies in this Congress to improve travel and infrastructure across our country but particularly here at Lake Tahoe.

In July, the FAA Extension, Safety, and Security Act was enacted into law. This important legislation implemented important reforms that make U.S. air travel safer, more efficient, critical to Nevada's tourism like Lake Tahoe.

Last year we enacted the first long-term highway bill in nearly a decade—the Fixing America's Surface Transportation Act. It is better known as the FAST Act. This bill is already advancing a variety of important transportation projects across our country. In

fact, I secured a variety of provisions in that bill that will facilitate the development of new and innovative transit, highway, and bridge projects specifically in the Tahoe Basin, as well as a provision aimed at improving pedestrian and cyclist safety. These transportation solutions improve mobility and outdoor recreation at the lake, while reducing the impacts transportation has on water quality and clarity.

Again, this week I stand with Chairman INHOFE to advance yet another important infrastructure bill—the Water Resources Development Act. This bill will strengthen our Nation's infrastructure and mitigates flood risks, improves the route for movement of goods, and invests in aging infrastructure for drinking water and wastewater.

Initiatives such as these are important to maintaining public health, improving water security, and keeping our Nation competitive in the global market. I urge my colleagues to help preserve Lake Tahoe and other cherished places across our Nation so future generations can enjoy these natural sceneries for generations to come. Let's add another major infrastructure win for the 114th Congress—support for the Heller-Heinrich amendment, the Lake Tahoe Restoration Act, and the Water Resources Development Act of 2016.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

NOMINATION OF MERRICK GARLAND

Mr. LEAHY. Mr. President, next month, on the first Monday in October, the Supreme Court will begin its new term. The question we have before us as Senators is whether there should be an empty seat on the dais when the Supreme Court convenes.

On the first Monday in October, we have always been accustomed to seeing all nine Justices there. For 7 months, the Court has been missing a Justice, and because of that vacancy, it has been repeatedly unable to serve as the final arbiter of the law. There have been eight Justices. There has been a vacancy most of this year.

The President fulfilled his constitutional duty in nominating somebody. We have failed to do our constitutional duty of advice and consent. The uncertainty in the law has been harmful to businesses, law enforcement, and to families and children across the country. It is a constitutional crisis. Worst of all, this constitutional crisis is wholly of the Senate Republicans' making, and they have the power to stop this constitutional crisis.

In February, the Republican leader claimed, because it was an election year, the Senate would somehow be justified in not doing its job in denying any consideration of the next Supreme Court nominee. Based on my conversations with Vermonters across the political spectrum and in every poll taken on this issue, the American people reject this partisan justification.

There is no election-year exception to Senators doing their jobs, there is no election-year exception to the President doing his job, and there is no election-year exception to the independent judiciary doing its job. Each branch of our government has its duty under the Constitution. The Republican leadership has said the Senate is going to reject its duty. It will damage the function of our Supreme Court. That needs to stop.

Since public confirmation hearings began in the Judiciary Committee for Supreme Court nominees a century ago, the Senate has never denied a nominee a hearing and a vote. The late Justice Scalia received a hearing 42 days after his nomination. Justice Kennedy, who was the last Justice confirmed in a Presidential election year, received a hearing in the Judiciary Committee, which was under the control of Democrats, just 14 days after President Reagan nominated him in a Presidential election year. The Democrats held a hearing in 14 days for this Republican nominee.

Contrast that to Chief Judge Garland's nomination that has been pending for 176 days. It is a totally unprecedented situation, and certainly that unprecedented delay has provided enough time for Senators and their staff to become familiar with his record in preparation for a hearing on debate.

The press may be focused on what might happen in a lameduck session, but this Vermonter is focused on his job now. The time for the Senate to act on the Supreme Court nomination is now. We should have a hearing next week. The Judiciary Committee can debate and consider the nomination the following week, and then the full Senate can debate and vote on his confirmation by the end of September. We have taken far less time in the past to confirm Supreme Court Justices, as the Senate has realized the urgency of having a Court at full strength.

Chief Judge Garland is ideally suited to serve on the Supreme Court on day one. He is currently the chief judge on the DC Circuit, which is also known as the second highest court. He has been a Federal judge for nearly two decades. He has more Federal judicial experience than any Supreme Court nominee in our Nation's history. As a former Federal prosecutor, he has been praised for his work leading the Justice Department's efforts on the ground in Oklahoma City in the days after the worst act of homegrown terrorism in our country's history. Republicans and Democrats alike have recognized Chief Judge Garland as a brilliant, impartial judge with unwavering fidelity to the rule of law. Republicans serving in this body, as well as Democrats in this body, said so when they voted for his confirmation to the DC Circuit.

Republicans should let this Chamber finally get to work on Chief Judge Garland's nomination. Bring the Supreme Court back to full strength in time for

the first oral argument of October. Of all the challenges facing our country, ensuring that our Supreme Court can serve as high as its constitutional function should not be one of them. This is a promise that Senate Republicans are making, but it is one they could easily solve this month.

Let's do our job. We took an oath to uphold the Constitution. Let's show that when we raised our hand to swear to uphold the Constitution, we really meant it. The President fulfilled his oath; it is time for us to do our job and fulfill ours.

I see my friend on the floor seeking recognition.

I yield the floor.

The PRESIDING OFFICER (Mrs. FISCHER). The Senator from Oklahoma.

Mr. INHOFE. Madam President, we have a couple of votes coming up that are very significant, and the occupier of the chair is fully aware of it, having served on the committee that has worked on this legislation.

I have to say one thing about the stuff we crank out of our Environment and Public Works Committee, and that is that it has been pretty significant. We had the FAST Act, the first highway reauthorization bill in 17 years, which was a major one. Then we did the chemical bill, which was great, and now we are going to do the WRDA bill. One of the things that is interesting about it is the number of ports we are talking about. I often prided Tulsa as being the most inland port; however, it could conceivably be that Omaha may be giving us competition. Nonetheless, it gives you an idea of the significance of this legislation.

Yesterday I talked about what would happen if this legislation doesn't become a law this year. If that happens, 29 navigation, flood control, and environmental restoration projects will not happen. There will be no new Corps reforms to let sponsors improve infrastructure at their own expense. There will be no FEMA assistance to States to rehabilitate unsafe dams. There will be no reforms to help communities address clean and safe drinking water infrastructures, which is a serious problem in my State of Oklahoma. There will be no deal on the coal ash, which has plagued the coal utilities for years with lawsuits. Finally, we have a very difficult issue that we have dealt with to most people's satisfaction, and so we want to get this done in fast order, and today is a very important day in accomplishing that.

Here are some other reasons why the bill is so important. The bill gets us back to every 2 years. At one time when the first WRDA came out—and I was there when it happened—we were supposed to have a Water, Resources, and Development Act every 2 years, but then we started slipping. During the last 8 years, prior to our coming back as a majority, we really didn't address this issue. This puts us back into our schedule of doing it every 2 years. These reforms can't wait any longer.

Secondly, we have recently been reminded several times of the need for Corps projects. We saw the algae wash up on the beaches in Florida this summer. The project that will fix Lake Okeechobee and prevent this problem in the future is in WRDA 2016.

I generally don't like everglades projects. In fact, I can remember—it wasn't that many years ago—when I was the only one voting against the Everglades Restoration Act. However, let's keep in mind that at that time there was not a chief report on it, and now that there is, we have something very significant that does affect that.

This chart shows the algae blooms in St. Lucie, FL. This is a picture of the algae blooms, which were caused by deteriorating water conditions. Not only are these blooms environmentally hazardous, but they are also economically debilitating to the communities living along south Florida's working coastline. Communities along the coast depend on clean, fresh waterflows to draw in tourism. As these blooms spread along the coast, economic development is negatively impacted. If we don't authorize the Central Everglades Planning Project, those communities will cease to exist.

We also saw historic flooding in Baton Rouge, LA. There are two ongoing Corps projects that could have prevented much of the damage that we saw last month. WRDA 2016 directs the Corps to expedite the completion of these projects.

This chart shows the Baton Rouge, LA, flooding. We can no longer use the "fix as it falls approach" as America's flood protection. It is not about economic losses that communities face after a devastating flood; it is about loss of human lives. We are talking about human lives, and not acting is just not an option.

Last year there were several collisions in the Houston Ship Channel because of the design deficiency. The channel is too narrow, and the Coast Guard has declared it to be a precautionary zone. This chart shows the Houston Ship Channel collision that happened in 2015. Without this bill, the navigation safety project to correct this issue will not move forward.

The Corps of Engineers projects that these projects help generate \$109 billion in annual economic development and generate \$32 billion in revenue for the U.S. Treasury. Few understand the economic benefits associated with WRDA. As I noted yesterday, expansion of the Panama Canal is complete, now allowing the larger—I think they call them the post-Panamax boats—to pass through the canal. Look at the comparison of the two vessels. This is what they can use today, and that is what is happening now.

This chart shows the pre- and post-Panamax ships. By not passing this bill, many of the important deepening projects for our nations will go unfunded, making it difficult for them to accommodate new Panamax shipping vessels.

One port that I pointed out yesterday was Charleston, SC. They have a 45-foot channel. With this bill, they will now be able to get to the 50- to 51-foot channel range that is necessary for this ship to be able to come in. The alternative to that is going somewhere in the Caribbean so they can break down these loads and put them on smaller ships. That increases the costs dramatically, and we are not going to allow that to happen.

The investments in drinking water and other investments are important, but let's not forget the fact that there are ports we can't use right now because they can't accommodate the big ships. The investments in drinking water and wastewater infrastructure will benefit both public health and our economy. Earlier I mentioned that this is really significant for my State of Oklahoma. We have States that are not wealthy States and are primarily rural areas, and the unfunded mandates that come in are just unbearable. I say this from experience. I used to be mayor of a major city, Tulsa, OK, for a number of years. At that time our biggest problem was unfunded mandates, and that is what we are separating from today. We can pretty much correct that with the changes we are making in our WRDA bill.

A recent study by the Water Environment Federation shows, just as this chart shows, that for every million dollars of Federal spending on drinking water and clean water infrastructure, we get \$2.95 million in economic output for the U.S. economy. Due to the ripple effect through the economy, these investments will result in new Federal tax revenues nearly equal to infrastructure investments. That is why we need to pass the WRDA bill now, and we have it in front of us today. It is a bill that will help protect America's working people and has major economic benefits.

The main reason I wanted to come to the floor—this is the second time that we have made this. It is not a mandate. It is just that the managers of this bill—that is Senator BOXER from California, the leadership, and I—all agree that in order to finally get people to bring their amendments to the floor, we need to have a deadline, which will be noon tomorrow. We ask that you get your amendments down here this afternoon. We are talking about amendments to the managers' package. We will not be able to consider those not in our package. That doesn't mean we are shutting them off because next week we will have the opportunity to present some, but if you want to have them seriously considered, they need to be in our package. This should come as no surprise, as our committee had asked for any and all amendments in July, prior to the August recess, in preparation for consideration in September. Last week, the Inhofe-Boxer substitute to S. 2848 was circulated, and our office stands ready to assist in any technical capacity in answering questions.

I have to say that Senator BOXER and I have worked very closely together. There are a lot of amendments that have come up and have been discussed. Some have been accepted, and others are being considered. Some are popular with Democrats but not Republicans, and the reverse is also true. This is our opportunity to do it.

If Members are unable to make the noon deadline tomorrow for our managers' package, we will still work to ensure that all amendments receive equal consideration as we work to clear as many amendments as possible and work to move amendments in regular order prior to the amendment-filing deadline for the underlying bill next week.

We have the opportunity to do this. We are now operating on deadlines. It has been my experience in the Senate that until you have a deadline where you have to do it, people, generally speaking, find other things to do. We are going to hold their feet to the fire this time. Let's try to get this through.

Let me just comment on Senator BOXER. We have worked on so many bills that are very meaningful to the American people. I can remember when they said on our side that we were not going to have a 5-year massive highway reauthorization bill. Yet I tried to explain to my conservative friends that that is the conservative approach because the only alternative to that is extensions. If you have extensions, that doesn't work at all.

We have worked very well together on that legislation, and of course we also were able to work on our chemical bill and do that, and now we are going to get this done next week.

I wish to yield to Senator BOXER and then retake the floor for the motions that will be necessary.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I say to my colleague that I will speak for 30 seconds because I said a lot yesterday, and I agree with the Senator's analysis of how important this bill is. I certainly agree that we have shown this body that we can overcome our differences and bring important bills to the floor. This one is critical. My friend has gone into it in great detail. We are talking about clean drinking water, navigation, the economy, and how we need to move products in ports and so on. It just covers the gamut of issues that are so important. I think we have done it in a way that is fiscally responsible.

I am here to again associate myself with your remarks and also to call on my side if anybody has amendments. I don't think our side has any more than the few that we have already started to work on. Look, we are trying to get this done quickly and trying to accommodate everybody. I think most people agree that if Senator INHOFE and I can agree on something, then it is pretty much not controversial. I am here to lend my eye to the voice votes we are

about to take, so I turn it back over to the chairman.

Mr. INHOFE. I think Senator BOXER's side has done a better job of getting their amendments in than our side. In talking to her and the leader over there, the Democratic side is down to about seven amendments that are being considered.

I encourage our Republicans to do the same thing and get this thing done so we can make it happen.

I take this opportunity to thank the Senator from California for the hard work we have done together.

AMENDMENT NOS. 4981 AND 4991 EN BLOC TO
AMENDMENT NO. 4979

Madam President, I ask unanimous consent that the following amendments be called up en bloc: Heller No. 4981 and Merkley No. 4991.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for others, proposes amendments numbered 4981 and 4991 to amendment No. 4979.

The amendments are as follows:

AMENDMENT NO. 4981

(Purpose: To ensure the proper implementation of the rural Western water program)

At the appropriate place, insert the following:

SEC. _____ RURAL WESTERN WATER.

Section 595 of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 383; 128 Stat. 1316) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

“(h) ELIGIBILITY.—

“(1) IN GENERAL.—Assistance under this section shall be made available to all eligible States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities, with priority given to projects in any applicable State that—

“(A) execute new or amended project cooperation agreements; and

“(B) commence promptly after the date of enactment of the Water Resources Development Act of 2016.

“(2) RURAL PROJECTS.—The Secretary shall consider a rural project authorized under this section and environmental infrastructure projects authorized under section 219 of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835) for new starts on the same basis as any other program funded from the construction account.”; and

(3) in subsection (i) (as redesignated by paragraph (1)), by striking “which shall—,” and all that follows through “remain” and inserting “to remain”.

AMENDMENT NO. 4991

(Purpose: To provide loan forgiveness under Clean Water State Revolving Funds to local irrigation districts)

At the end of subtitle B of title VII, add the following:

SEC. 7206. LOAN FORGIVENESS FOR LOCAL IRRIGATION DISTRICTS.

Subsection (j)(1) of section 603 of the Federal Water Pollution Control Act (33 U.S.C.

1383) (as redesignated by section 7202(b)(1)(A)(ii)) is amended—

(1) in the matter preceding subparagraph (A), by striking “to a municipality or an intermunicipal, interstate, or State agency” and inserting “to an eligible recipient”; and

(2) in subparagraph (A), in the matter preceding clause (i), by inserting “in assistance to a municipality or intermunicipal, interstate, or State agency” before “to benefit”.

Mr. INHOFE. Madam President, I ask unanimous consent that the Senate now vote on these amendment en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. I know of no further debate on these amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendments en bloc.

The amendments (Nos. 4981 and 4991) were agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

OBAMACARE

Mr. MCCAIN. Madam President, over the last few weeks, my home State of Arizona has been thrust into the national spotlight. I wish I could say it is because of the success of our sports teams or the strength of our universities. Instead, it is because Arizona has become ground zero for the collapse of ObamaCare, leaving most of our citizens with limited choices and higher costs when it comes to the President's signature health care law, which is a law that I fought against for weeks on end and which the then-majority on the other side of the aisle, with 60 votes and without a single Republican vote and without a single Republican amendment, passed into law.

In 2009 the President said: “[I]f you've got health insurance, you like your doctor, you like your plan—you can keep your doctor, you can keep your plan. Nobody is talking about taking that away from you.”

Let me repeat the words of the President of the United States after, on a strict party-line basis, he passed ObamaCare: “[I]f you've got health insurance, you like your doctor, you like your plan—you can keep your doctor, you can keep your plan. Nobody is talking about taking that away from you.”

That is a quote from the President of the United States when ObamaCare was passed. He also said that if you like your health insurance policy, you can keep your policy, period, in his own inimitable style.

Ever since the passage of ObamaCare, Americans have been hit by broken promise after broken promise and met with higher costs, fewer choices, and poor quality of care.

Let me read just a few of the most recent headlines addressing the collapse of ObamaCare in Arizona.

Madam President, I ask unanimous consent that relevant articles be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From politico.com, Aug. 22, 2016]

THE COUNTY OBAMACARE FORGOT

(By Rachana Pradhan)

An Arizona county is poised to become an Obamacare ghost town because no insurer wants to sell exchange plans there.

Aetna's recent announcement that it would exit most of the states where it offers Obamacare plans leaves residents of Pinal County, Arizona, without any options to get subsidized health coverage next year, unless regulators scramble to find a carrier to fill the void between now and early October.

About 9,700 people in Pinal signed up for Obamacare plans this year, according to administration data.

The predicament of Pinal County is an extreme example of the contraction of insurers in the Obamacare markets expected in 2017. The federal health care law was supposed to offer a range of affordable health care plans through competition among private insurers. But that competition has dramatically declined in some states, as a result of pull-backs by national insurers and failed co-op plans. Decline in competition means fewer choices and, often, higher prices for consumers.

Nearly 1 in 5 potential Obamacare customers may have just one insurer selling plans in their communities—up from just 2 percent of customers who had one option this year, according to the McKinsey Center for U.S. Health System Reform.

But in Pinal County, a rural community within the Phoenix metropolitan area, many may lose health care coverage altogether.

"If you have a several-hundred-dollar-a-month subsidy available and you lose that, that's going to be huge," said Thomas Schryer, director of the Pinal County Public Health Services District.

He predicted that many Pinal residents would be unable to afford more costly insurance plans outside the Obamacare marketplace and were likely to roll the dice and go without coverage—something that will be far more risky for those with chronic health problems or who are in the middle of treatments.

Arizona's Obamacare marketplace had previously offered plans sold by national insurers like United-Health Group and Humana, as well as by a nonprofit co-op plan seeded with Obamacare loans. But the co-op collapsed, and United and Humana, like Aetna, are leaving the exchange. Other companies, like Blue Cross Blue Shield of Arizona, are scaling back their presence.

"It's a dramatic case of a more general thing: There are weaker markets that are going to be less attractive for carriers," said Katherine Hempstead of the Robert Wood Johnson Foundation.

It isn't entirely clear why insurers are fleeing this particular county, which had about an 18 percent poverty rate in 2014—higher than the roughly 15 percent for the country as a whole but not extreme. Median household income was around \$50,250, according to the Census.

Yet there are higher rates of adult obesity, physical inactivity and teen births in Pinal County compared with statewide figures, according to data from the Robert Wood Johnson Foundation. A shortage of health providers is also acute, with only one primary care doctor for every 6,700 people.

"The reason why it's empty is because nobody wants to be there," one insurance industry source said of Pinal County. "The only thing a [regulator] can do is beg."

Although Pinal experienced a population boom in the 2000s, it doesn't have much of an economic base, so most people work and likely receive their health care in nearby Phoenix, according to Arizona State University professor Tom Rex.

"The health care infrastructure often takes many years to catch up with the population," said Schryer.

Begging on behalf of Obamacare can be politically problematic in a red state like Arizona, where Obamacare has been a prominent feature of at least one reelection campaign in the current cycle. Sen. John McCain has made it a centerpiece of his bid for another term.

Such was the case in Mississippi in 2013, when state Insurance Commissioner Mike Chaney had to convince an insurer to offer plans in 36 counties that had no options ahead of the first open enrollment period. Chaney said federal regulators helped the state because it was "very unpopular" for a Republican to help recruit someone to cover the entire state. Humana eventually agreed to sell on the exchange in those counties, and it's still there.

"What we're having to do now to keep companies in our state to cover all of the counties is to grant some pretty heavy rate increases," Chaney said in a recent interview.

Health policy experts say that Blue Cross Blue Shield of Arizona would be the most likely to sell plans in Pinal if regulators can coax it back. The company had offered plans in the county this year but decided to drop its offerings there, as well as in neighboring Maricopa County, where Phoenix is located, according to its 2017 rate filings.

The company has said that in light of Aetna's exit, it is re-evaluating where it will offer plans next year. But an agreement to return would likely come at a price. BCBS of Arizona had initially requested a rate increase of 65 percent on average for individual plans, when Maricopa and Pinal counties were part of its filing. When it dropped those counties, the company revised its proposed increase to 51 percent.

Aetna initially submitted an 18 percent rate increase for its individual plans on the exchange. It later jacked up its requested rate increase to 86 percent, before pulling out entirely.

Trish Riley, executive director of the National Academy for State Health Policy, said regulators have discretion in setting coverage rules but few things can be done quickly. Agreeing to look at rates again would offer an incentive to insurers to participate, she said.

"What are your options?" she said of state regulators. "Disenfranchised consumers are going to sue you. People aren't going to get coverage. Those aren't good options."

In the long term, Riley said the recent spate of insurance company exits should spur a broader conversation about strategies to stabilize the exchanges.

"I think this is a wake-up call," she said.

But state Insurance Department spokesman Stephen Briggs offered a different perspective, saying regulators "are not scrambling" to find another company. He also dismissed the notion that regulators might grant higher rate increases to an insurer if it agreed to serve Pinal. He said the department is still reviewing plan rates for 2017 and final rates would be released in September.

"The decision to really offer a product is a business decision that the company still has the right to make," he said.

[From The Republic, Aug. 26, 2016]

ARIZONA CONSUMERS FRET AS 'OBAMACARE'
INSURANCE OPTIONS DWINDLE

(By Ken Altucker)

For many who buy their own health insurance, next year is shaping up to be a challenging and financially painful year.

Six major health insurers that sell plans directly to consumers are bowing out or scal-

ing back on the Affordable Care Act marketplace in Arizona.

Only two marketplace insurers will remain in Arizona's largest county, Maricopa County, and the exodus has left Pinal County without a single insurer willing to offer a marketplace option next year to the nearly 10,000 people now enrolled.

Federal and state officials caution that things could change between now and Nov. 1, the scheduled start of the three-month enrollment period. They cite regulatory efforts to woo at least one Pinal County insurance provider.

Arizona Department of Insurance officials do not expect to finalize the list of insurers until mid- to late September, said department spokesman Stephen Briggs. The state agency, which regulates the insurance market in Arizona, can't say for certain at this point which plans will be available during enrollment.

But six insurance companies already have announced plans or disclosed in state filings their intention to drop out or scale back marketplace coverage in 2017. Aetna, Health Choice Insurance Co., Humana and UnitedHealth Group will discontinue marketplace plans in Arizona. Health Net will offer plans only in Pima County next year, according to state Department of Insurance filings.

Blue Cross Blue Shield of Arizona, Arizona's health insurance mainstay, announced in June that steep financial losses had prompted it to stop selling marketplace plans in Maricopa and Pinal counties starting next year. The company had offered plans in every county since the Affordable Care Act marketplace launched in 2014.

However, Blue Cross Blue Shield has since said it is reconsidering in the wake of Aetna's exit.

The trickle of insurers exiting—and rate-hike requests of as much as 122 percent for remaining insurers—is making consumers nervous. Some are taking step to prepare for what they fear could be delayed care and long trips to doctors' offices and hospitals.

'YOU'LL NEVER SEE A DOCTOR'

Claburn Niven Jones, who owns a home in Scottsdale and a condo in the San Francisco Bay area, said the insurance shakeout has prompted him to take steps to relocate to California. The reason? The 63-year-old cancer patient doesn't think that there will be enough insurance and health-provider options for Maricopa County residents next year.

Diagnosed with prostate and thyroid cancers, Jones envisions long waits for specialists with crowded appointment calendars.

He doesn't want to take that chance.

Enrollment figures show that more than 126,000 Maricopa County residents selected marketplace health plans offered by eight insurance companies as of Feb. 1. Those marketplace customers who seek to continue coverage will have only two options left by Jan. 1, 2017—Phoenix Health Plans Inc. and Cigna.

"If you add them all up and throw them into a network, you'll never see a doctor," said Jones, a retired certified public accountant. "It's going to be a health care disaster for the people of Phoenix."

Neither Phoenix Health Plans nor Cigna are willing to discuss proposed provider networks until state and federal insurance regulators sign off on their plans for next year.

Briggs said the state insurance department uses formulas to make sure there are enough doctors, labs and hospitals to handle the projected number of customers.

He acknowledged that the remaining insurers could face heavier customer loads after so many other insurers have dropped out or scaled back.

“They do have to demonstrate their ability to—or lack thereof—to handle the (customers) in their network,” Briggs said.

Jones has an insurance plan through a unit of UnitedHealth Group that will expire Dec. 31. UnitedHealth won't offer an individual plan next year in Maricopa County.

Jones said he began investigating other marketplace options even though he does not qualify for subsidized ACA coverage.

He believes both Cigna and Phoenix Health Plans will be inundated with marketplace customers, and he said he can't wait until Nov. 1 to find detailed information on the insurers' networks of doctors and hospitals.

He will undergo proton radiation treatment this fall for his prostate cancer. He also needs regular appointments with an endocrinologist to monitor his thyroid cancer, which requires periodic scans following an earlier surgery.

Jones said he is preparing to establish full-time residency in California, where he owns a condominium in San Mateo.

We moved to Arizona for a quality of life and (lower) expense,” said Niven. “I can't get insurance, so I will have to leave.”

Other Arizonans, too, are worried that Maricopa County's narrowing options could pose challenges.

North Scottsdale resident Jane Vesely, 62, has a Blue Cross Blue Shield plan that will expire at the end of this year. She wants a marketplace plan, but she worries that neither Cigna nor Phoenix Health Plans will provide an in-network hospital near her house.

Cigna's current marketplace plans this year use its Connect network, which includes Banner Health hospitals and some specialty hospitals. The network does not include HonorHealth's Scottsdale hospitals closest to Vesely's home.

The other marketplace plan, Phoenix Health Plans, is owned by the for-profit hospital chain Tenet Healthcare. It also does not contract with Scottsdale-based HonorHealth.

It's unclear if the Department of Insurance will ask the two plans to expand their existing networks.

Vesely long had access to hospitals, doctors and specialists near her home through her husband's employer-provided health plan. Her husband retired in 2014 and is on Medicare. She has to wait more than two years before she's eligible for the federal health program for those 65 and older.

“The exchange was healthy (in 2014) and we made the decision that I don't really have to go back to work,” said Vesely. Now she may need to get a job that offers health insurance due to the fraying marketplace.

“I have a feeling there are a lot of people like me who may be in a similar position,” she said.

FEDS SAY MARKETPLACE PLANS REMAIN AFFORDABLE FOR MOST

The U.S. Department of Health and Human Services released a report Wednesday highlighting the affordability of marketplace plans for most people. Even if insurers raised rates by an average of 50 percent, 72 percent of Arizonans could buy health coverage next year for \$100 or less each month, after tax credit subsidies are calculated, the report said.

Tax credits are an Affordable Care Act tool used to offset the cost of monthly premiums for individuals who earn between 138 percent to 400 percent of the federal poverty level. More than 124,000 Arizonans who were enrolled in a plan as of March 31 had received a tax credit. But another 55,000-plus residents paid the full amount for marketplace plans, and they could face significant rate hikes next year.

Phoenix Health Plans will seek to raise rates on marketplace plans by an average of 122 percent, while Cigna has requested a 19 percent increase. Blue Cross Blue Shield, expected to be the only marketplace option in most rural Arizona counties, is seeking an average rate increase of 51 percent.

The Department of Insurance is reviewing the proposed rate increases. However, it does not have the authority under state law to reject a rate increase. The state's review can only determine whether an insurer's rate change is reasonable or unreasonable.

In the past, insurers have agreed to modify rate requests that state regulators determined were unreasonable. There's no guarantee that insurers will do that this year, particularly with a majority of Arizona counties expected to have only one marketplace insurer.

“Even if we go back to a provider to say, ‘You haven't demonstrated or justified the increase,’ they can say, ‘Well, we appreciate that. This is what we think we have to charge in order to not go bankrupt,’” Briggs said.

While the HHS report emphasized the affordability of plans for those who qualify for health subsidies, it did not address the narrowing of health-care options in Arizona and other states.

Ben Wakana, HHS' deputy assistant secretary for public affairs, said it's important to look at how the federal health law has transformed the insurance market.

“Four years ago, companies in the individual market relied on a business model of largely denying coverage to people with pre-existing conditions,” Wakana said.

He noted that the federal health-care law now forbids marketplace insurers from denying coverage to the sick, and most people can buy coverage at subsidized rates, he said.

“It has helped to get this country to the lowest uninsured rate on record,” he said.

[From Cronkite News, Aug. 10, 2016]

OBAMACARE CONSUMERS FACE HIGHER COSTS IN FALL

(By Keshia Butts)

WASHINGTON.—When it comes to Obamacare in Arizona, not much is certain, but this much is: Coverage will still be available, but it will cost more.

Five insurance companies that had offered coverage in the Affordable Care Act marketplace have told state regulators that they will opt out or scale back coverage when the next open season for Affordable Care Act coverage begins Nov. 1.

There will still be coverage, but with fewer providers experts say costs will likely go up “much higher in 2017 than they had in the past couple of years.”

A national estimate by the Kaiser Family Foundation predicts that premiums for one of the lower-costs plans could rise as much as 9 percent next year, compared to 2 percent this year. In Arizona, those higher premiums could hit more than 100,000 people.

“The general trend is, as premiums are going up they are going up faster than certainly consumers would like and even supporters of the law expected or hoped,” said Michael Cannon, the director of health policy studies at the Cato Institute.

Insurance companies had until Tuesday to let state regulators, and their customers, know whether they will still be offering coverage at all or scaling back plans when the next open enrollment period under the Affordable Care Act begins on Nov. 1.

As of last week, five companies in Arizona had announced plans to pull out or pull back: Health Choice, United Healthcare, Humana, Blue Cross Blue Shield of Arizona and Health Net.

For the insurers, it's a business decision: They are losing money on the policies they have offered in previous rounds of the Affordable Care Act, better known as Obamacare.

Jeff Stelnik, senior vice president of Blue Cross Blue Shield of Arizona, said the company lost \$185 million on ACA plans in two years and expects to continue to see losses. “Our focus will be on our customers and finding the best way for them,” Stelnik said.

Health Choice opted out of the Arizona marketplace for similar reasons, said Laura Waugh, the director of marketing and communications there.

“The business and regulatory uncertainties that exist at this time with respect to the federal health insurance marketplace significantly impacted our decision to discontinue our marketplace product offerings,” Waugh said in an emailed statement.

The shifting marketplace was not unexpected, as it is still a relatively new market, said Allen Gjersvig, director of navigator and enrollment services at the Arizona Alliance for Community Health Centers. But he said he also expects “as we go forward for some companies to expand coverage.”

In the meantime, people looking for coverage in the next round of Obamacare, which runs from Nov. 1 to Jan. 31, should still have plenty of plans to choose from, analysts said.

“In the key population areas of Arizona there is still going to be significant competition so that people can choose among a variety of plans, and that's going to be very helpful to them,” said Ron Pollack, executive director of Families USA.

But they should brace for higher costs. “What we are seeing so far is that premiums are going up much higher in 2017 than they had in the past couple of years,” said Cynthia Cox, associate director of health reform and private insurance at Kaiser Family Foundation.

Cato's Cannon said there are several reasons why premium prices are rising.

“It requires people to buy more coverage than they did otherwise and it prevents insurance companies from saying no to people who have pre-existing conditions,” Cannon said of Obamacare. “And then it encourages those with expensive illnesses to sign up for the most comprehensive plans.”

But Pollack said that while premium prices will increase, so will the federal subsidies many consumers get to help them pay for their coverage.

“Even if somebody's premiums are somewhat higher than they were before, their subsidies will be somewhat higher than they were before and the ultimate thing that a consumer cares about is how much do I have to pay out of pocket,” Pollack said.

Mr. MCCAIN, Phoenix Business Journal, September 2, 2016: “Phoenix Health Plan dumps Obamacare Exchange, leaves Cigna as sole carrier in Maricopa County.”

The Arizona Republic, August 17, 2016: “Pinal County left with no ACA options as Aetna exits Arizona.”

Politico, August 22, 2016: “The county Obama forgot.”

USA TODAY, August 30, 2016: “Health Care Choices Choked Further.”

Havasu News, August 10, 2016: “Obamacare consumers face higher costs in fall.”

TIME, August 25, 2016: “Aetna Has Revealed Obamacare's Many Broken Promises.”

The Arizona Republic, August 26, 2016: “Arizona consumers fret as ‘Obamacare’ insurance options dwindle.”

The Arizona Republic, June 14, 2016: "Insurers seek rate hikes for ACA plans."

Come November 1, this will be the reality for hundreds of thousands of hard-working Arizonans currently enrolled in ObamaCare. Already, UnitedHealth, Humana, Health Choice Insurance Co., Aetna, and now Phoenix Health Plan have all announced they are exiting Arizona's marketplace.

Up until late last night, Arizona had the dubious distinction of being home to the only county in America without a single health insurance provider offering plans in 2017. While I am pleased that Blue Cross Blue Shield of Arizona decided to step in to save Pinal County from having no choices in the Federal marketplace, there is no reason to believe this is an economically viable or sustainable end result. The fact remains that this is a far cry from what President Obama promised before and after signing his signature health care reform bill into law.

The mass exodus of health insurers from the ObamaCare marketplace should come as no surprise to anyone. Over the last few years, these providers have reported massive financial losses as a result of their participation in the Federal exchanges. UnitedHealth, for example, recently projected to lose well over \$1 billion as a result of the poorly constructed ObamaCare marketplace. For the insurers who continue to participate in the exchanges, their only option is to raise premium rates astronomically high in order to cover their losses. In fact, one of the insurers in Arizona, in Maricopa County, said they are going to ask for a 65-percent rate increase. Copays are going up into the thousands of dollars.

What is clear is that ObamaCare is crumbling and Arizonans are being left to pick up the pieces.

Let me direct the attention of my colleagues to this map. As we can see, as it stands today, 14 of Arizona's 15 counties will have a single—that is one—a single health insurer to shop for coverage when open enrollment begins on November 1. That includes Maricopa County, Arizona's most populous county, impacting more than 120,000 of my fellow citizens. This is down from the eight health insurance options Maricopa County residents had in 2016. Let me repeat that. In 2016, they had eight health insurers to choose from. Guess what they are going to have in 2017. One, along with every other county in Arizona, with one exception that will have two. As we can see, none have three. Up until yesterday, Pinal County was in the red. Worse still, of those 14 counties, 13 Arizona counties will see their premiums increase on average by 51 percent. Thirteen of these counties will see their premiums increase on average by 51 percent. For some families, this could mean thousands of dollars per month out of their paychecks. I doubt that their standard of living and their pay has increased sufficiently to cover a 51-percent increase in their premiums.

That is why Cynthia Cox, associate director of health reform and private insurance at the Kaiser Family Foundation, recently stated:

In most other parts of the country, large cities like Phoenix have multiple insurers participating in them. Arizona is by far the most affected state when it comes to these exits.

For a law that President Obama said would bring "[more] choice, more competition [and] real health care security," ObamaCare has delivered nothing more than empty promises.

Today, thousands of my fellow citizens are asking "What happens if the only plan being offered in my county doesn't cover my current doctor or the coverage is insufficient for my family's needs?" or "Should I purchase health insurance at all, given all the upheaval in the market?"

Well, when crafting this law, President Obama and congressional Democrats thought it would be a good idea to penalize those people who don't enroll by forcing them to pay a fine—to pay a fine if they didn't enroll. Put simply, if you don't enroll, you pay a fine. If there is a monopoly in a given county with no competition, you are penalized.

Being forced to choose between a much more expensive plan and paying a fine is unconscionable. In other words, they have two choices: not accepting the one plan or paying a fine. That is unconscionable. That is why yesterday I joined Senators COTTON, SASSE, FLAKE, JOHNSON, and BARRASSO in introducing legislation that would protect individuals living in a county with no competition in the Federal marketplace from having to pay a penalty. These Americans should not be forced to bear the burdens of a health care system that was fatally flawed from conception.

The collapse of ObamaCare in Arizona and across the country confirms what Republicans have warned about all along: Government-mandated health care is unsustainable. Now that the law is unraveling, it is no surprise that Democrats are clamoring for a so-called "public option" that is nothing more than government-run health care. If anything is clear about this failed law, it is that more government intervention is the wrong solution to fixing our health care system.

This failed law will only continue to place undue burdens on Arizona families unless we repeal and replace ObamaCare with real reform that encourages competition and empowers patients to make their own health care decisions.

I will continue to push for this bill with Senator PERDUE that would do just that—replace ObamaCare with commonsense solutions that empower patients and doctors, not the government, to take back control of their health care. Until then, hard-working Americans will continue to bear the consequences of a failed ObamaCare.

Madam President, I ask unanimous consent to engage in a colloquy with the Senator from Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I see my friend Dr. BARRASSO. I would ask Dr. BARRASSO, what happens to average citizens when, as is the case in my State, all but one county only have one option, one health care provider? What happens then?

Mr. BARRASSO. Well, it is so interesting that the Senator would bring this up because the entire State of Wyoming has found itself in exactly the same situation where there is only one choice. Remember, the President promised a marketplace. What the American people have gotten is a monopoly. In one-third of all the counties in the country, they are down to a single—and it is not really a choice; it is a take-it-or-leave-it situation. I call all of these places falling into what is called the "ObamaCare wasteland." It is unfortunate to see it happening in county after county.

I know you have been talking about the headlines: 31 percent, one in three counties, one choice. That is not what the President promised. One broken promise after another.

I don't know if you saw the most recent polling today out from Gallup. It said a couple of things: The number of people who disapprove of the health care has gone up and the number who approve has dropped. The headlines are telling the true story about how bad this is. People are finally seeing the truth, in spite of all the things the Obama administration and the Democrats who passed these things have been saying for a number of years.

Mr. MCCAIN. If I could ask another question, and that is, we see—and it is well publicized—the increases in premiums. For example, in Maricopa County, the health care provider remaining is asking for 65 percent increases in premiums, but what about the copays? In other words, isn't it hard for Americans to understand why they would literally pay thousands of dollars before they would be eligible to receive the care?

Mr. BARRASSO. Well, that is it. The deductibles and the copays are one of the reasons that people are saying they are disapproving of the health care law. The premiums have continued to go up, but on top of that, even if you get a subsidy that President Obama says is helpful, it doesn't touch it that first time or the second or the 5,000th because people, before they actually get to use the so-called insurance, have to come up with, for families, sometimes up to \$10,000 out of their own pocket before that. So the insurance is not really useful.

It is interesting when we listen to the President say they have coverage—but not if they can't get care. It is useless coverage. It is empty coverage. It is not what people want, which is affordable care.

Mr. MCCAIN. So if you are an average citizen and you see your deductible at a couple thousand dollars, it seems

to me that your only other option really is to go to the emergency room, the most expensive form of health care.

Mr. BARRASSO. That is very often the case, and we are seeing more and more of that across the country. Emergency room doctors are saying they are swamped.

The President says that when they get ObamaCare, they will find family doctors. That is not what is happening. What is happening is the emergency rooms are being more and more included and involved, and that is where patients are turning today, which is why the Gallup poll today says 29 percent of Americans say they have personally been hurt by the health care law, and this may also be true in Arizona, or worse. So to help people who didn't have insurance, the President and the Democrats and those who voted for this bill should never have had to hurt so many Americans, and today about one in three Americans says they have been personally hurt by this law. Those are the numbers that are out today.

Mr. MCCAIN. So at the next townhall meeting you or I have, somebody is going to stand up and say: OK, ObamaCare has failed, Senator BARRASSO, or Senator MCCAIN. What is the answer?

Mr. BARRASSO. Senator GRAHAM from South Carolina and I introduced a bill called the Health Care Choice Act to let the States have much more of a say in this. The State Health Care Choice Act provides freedom, flexibility, choice. So much of the reason prices have gone up so high is, the President has decided what kind of insurance people need to buy instead of letting the people themselves decide what they need, what is best for them and their families. I have gotten letters, and I know you have as well, where families had insurance that worked for them, but it wasn't good enough for President Obama because he feels he knows better than the people know about themselves and their families.

We want to provide the freedom and the flexibility of choice to let States decide whether they want to comply with the mandates of ObamaCare. States have much more involvement than Washington's one-size-fits-all that I know sure doesn't work for Wyoming and I suspect doesn't work in Arizona either.

Mr. MCCAIN. In a townhall meeting, someone will stand up in Cody or Tucson and say: Senator MCCAIN, the cost of my prescription drugs has gone up 100 percent, 200 percent or whatever. How do we answer people who literally can no longer afford, in some cases, lifesaving prescription drugs?

Mr. BARRASSO. ObamaCare has actually made that worse because if you take a look at the numbers in the deductibles and copays, people who get insurance through ObamaCare have found out in the last several years that they have paid twice as much out of

pocket for prescription drugs as people who got insurance through work because at work the copays are lower, the deductibles are lower, and there is coverage for medications which are expensive because of medical breakthroughs.

The life expectancy of human beings continues to go up because of the advances in medicine and technology. All of these advances have been very helpful for us as citizens of this country and as people living on this planet, but the costs are there, and with ObamaCare we are finding that those people who have to get prescriptions filled through ObamaCare are paying over twice as much as what people are paying who get insurance through work, which is why we need to get away from ObamaCare and repeal it and replace it with patient-centered care, which we are not getting under the ObamaCare law.

Mr. MCCAIN. It seems to me that as we debated for weeks on the floor of the Senate, the fundamental premise of ObamaCare was to take money from healthy young Americans in order to pay for the health care needs of older, not so well Americans. We are seeing a lot of young Americans who are saying: I would rather pay the fine. I would rather pay the fine. So the estimates of those who would be enrolled is roughly half of what the Congressional Budget Office predicted would be enrolled. Obviously, this has a huge effect on the whole ability of health care, ObamaCare, to care for these people.

Mr. BARRASSO. That was the front page story in the Washington Post on Sunday, August 28, "Health Exchange Sign-Ups Fall Short."

The Congressional Budget Office expected 24 million people to sign up, and less than 11 million have signed up. So less than half of the people they predicted would sign up have done so, and the reason is, so many people looked at it and didn't sign up. Why don't people sign up? Because they believe it is a bad deal for them personally. They looked at the high copays, the high deductibles, as the Senator from Arizona made reference to, and the high premiums. They decided it was cheaper to pay a fine than to buy the insurance. They find they cannot use it anyway because the deductibles and copays are so high.

Mr. MCCAIN. If you are a young person and you have paid the fine and then you get in an automobile accident on the way to the hospital, wouldn't you want to sign up for ObamaCare?

Mr. BARRASSO. Interestingly enough, President Obama has made it pretty easy to do that. What we found in watching some of these testimonies from around the country, in one State, you had over 250 people who signed up, got treatment, over \$100,000 worth of treatment, and then dropped the insurance. They are gaming the system left and right because that is the way President Obama has it set up.

Look, it was written behind closed doors in the office of the then-majority

leader, HARRY REID, but because it has become such a disaster, the Democrats have lost the majority and are now in the minority because so many people are bothered by the way the President and the believers in his process have said: It is all right. We have the votes. We are going to do it. We are not going to listen to Republicans. We are not going to listen to doctors who have practiced medicine their whole lives. We know what is better for the American people. That is exactly what we have happening. That is why so many people are saying: It is not a good deal for me. I don't want any part of it. Now we see this Gallup poll where 49 percent of Americans believe this health care law has hurt them personally. Today we are seeing that a greater number of Americans believe this law is going to hurt health care for them and their families into the future. So that is not a good projection about what we need as Americans in a time when we have more people who are living longer and older and want to lead healthier lives.

Mr. MCCAIN. I would like to say to Dr. BARRASSO that I have appreciated your leadership on this issue, and your knowledge and background, frankly, ever since ObamaCare was passed. The Senator has been very helpful to people such as I as we have gone through this odyssey, where the President had said there would be more choice, more competition, and real health care security. He also said, by the way—I think you might recall it, in his own inimitable style, saying: If you like your health care plan, you can keep your health care plan, period. Remember the "period" he added to the comment?

So I thank the Senator, and I want to assure the citizens of Arizona that I will do everything in my power to repeal and replace ObamaCare, which is causing so much harm to the people of my State. It is unconscionable, unnecessary, and I would have it as one of my highest priorities.

I thank Dr. BARRASSO and I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Madam President, I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. RUBIO pertaining to the introduction of S. 3301 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Ohio.

SENIOR TAX HIKE PREVENTION ACT

Mr. PORTMAN. Madam President, I rise to talk about a tax increase in the President's Affordable Care Act. I want to start, though, by commending my colleague from Florida for his remarks regarding the Zika virus and the impact it is having, not just on his State but on so many others in our country. I thank him for his diligence in trying to get to a solution.

We are so close. We did pass something in the Senate. The House passed something a little different. It is time for us to figure out how to resolve these relatively small differences and provide the help that is needed. This is an emergency. It is a medical emergency. I was on the floor yesterday speaking about another emergency, which is the opioid issue and the heroin and prescription drug addiction and now fentanyl addiction issue that is facing Ohio and so many other States in this country. So these are both issues that I hope Congress will act on as part of the process of being sure the government is funded at the year's end. Again, I commend my colleague from Florida, Senator RUBIO, for his good work on this.

Again, Madam President, what I want to talk about is a tax increase that is actually in the Affordable Care Act. This is a tax increase that many people don't know about, but sadly it goes into effect at year's end, and it is going to affect a lot of middle-income seniors in Ohio and around the country. There are millions of seniors who are potentially vulnerable to this tax increase. Some of them don't even know about it.

By the way, it comes at a time when middle-class families all around this country are feeling squeezed. It is those very middle-class families who are going to be hit hardest by this tax increase. Let's face it. Wages are flat, even declining, on average, when you take inflation into account; whereas, the cost of living has gone up, hasn't it. There are a number of factors to that. Electricity costs have gone up in my home State of Ohio by about 25 percent in the last several years, for instance.

But with regard to health care costs, there is no question that everybody is experiencing an increase—families, small businesses, seniors. The President's health care law, the Affordable Care Act, of course, was advertised as helping on that. The notion was, as was explained at the time, that there would be about a \$2,500-per-family decrease in the cost of health care premiums. That has not happened.

In fact, costs have skyrocketed to the point that for many people it is their biggest cost increase and they simply cannot afford health care coverage. It was supposed to bend the cost curve and bring health care costs down, but it simply hasn't. The Ohio Department of Insurance just did an analysis. They say the average cost of health care insurance premiums for the individual market in Ohio has increased over the past 7 years by 90 percent—90 percent—almost a doubling.

When you look at the Affordable Care Act exchanges themselves, it was just reported that we are expecting a 12-percent, on average, increase—12-percent, on average, increase—for people in the exchanges. Who can afford that? This is a double-digit increase. The result, again, is people are feeling the squeeze.

Wages are flat, expenses up. There is a survey that was done by the Federal Reserve recently that said about half of all Americans say they have to borrow money or sell something to cover a \$400 emergency expense—\$400.

If you have ever had a health emergency, you know that can catch you by surprise. It can happen to anyone. Trust me, it usually costs more than \$400. Seniors are especially vulnerable to these expenses, particularly seniors who are on fixed incomes. One economist testified to the Senate Finance Committee at a hearing we had that, in part, because of those unexpected health care cost increases, more than 85 percent of Americans are at risk of having insufficient income in retirement—more than 85 percent.

We think this middle-class squeeze is going to get worse, not better, in Ohio because so many companies are pulling out of the health care exchanges. So, in Ohio, 6 of the 17 companies that offer health care on the Ohio exchanges have now decided to pull out because they are losing money. Aetna is the most recent one. This means, of course, less choice. When you have less choice, what happens? Less competition. Less competition, what happens? You tend to have higher costs and lower quality.

So this is going to make things even worse. The Congressional Budget Office, the nonpartisan group in Congress, and the Joint Committee on Taxation projects that health insurance premiums over the next decade will continue to grow at about 5 percent per year, on average. So that steady increase is just impossible for people to be able to afford.

For seniors, the Medicare trustees project Medicare's monthly Part B premium and deductible will increase even faster than that, by about 5.5 percent per year. Again, for a lot of people in that situation, they are on a fixed income. Their income is not going up 5.5 percent per year. One way seniors have found relief from the squeeze, of course, is take advantage of what is called the medical expense tax deduction. It is very simple. It says that if your medical expenses exceed 7.5 percent of your income, then you can deduct all of those medical expenses.

A lot of seniors take advantage of that. Again, what a lot of seniors may not know is that as of the end of this year, under the Affordable Care Act, it increases—that threshold increases from 7.5 percent up to 10 percent. What does that mean? It means a lot of middle-income seniors are not going to be able to deduct their medical expenses because they exceed 7.5 percent, but they don't exceed 10 percent of their income.

By the way, there are about 10 million Americans who use this deduction every year. Most of them are seniors. A lot of them make less than the national average household income. In fact, most make less than that. Of course, a lot are on a fixed income. I have met with some of these people

back home who are directly affected by this. One would be Susan Culbertson. She is from Zanesville, OH. I was with her in Columbus last week.

Susan said she started working when she was 14 years old. She contributed to Social Security. She thought she had a decent plan for health care with Medicare and being able to take this deduction. Now, as a senior citizen, she has a chronic illness. She is losing sleep over how she is going to pay for all of her medical bills if this threshold goes up to 10 percent.

Her husband Michael McVicker worked as a substance abuse counselor in a school. He is now living off of Social Security and, boy, that is hard to do, as seniors will tell you. When he had a heart attack a few years ago, the medical expense deduction helped him and his wife Susan be able to stay afloat financially. The difference between the 7.5 percent and the 10 percent may not seem like much to some people, but it matters a lot to Susan, to her husband Michael, and to many other seniors in Ohio.

I met with Lanny Hawkins. He is from Ontario, OH. He volunteers to help seniors do their taxes. God bless him. That is a hard job because the Tax Code has gotten so doggone complicated that people need help from these advisers. He tries to help them walk through the Tax Code. He told me that in his experience, the medical expense deduction is especially helpful to seniors who have just lost their spouse. He says then only one income is there, and often they still have to pay their spouse's medical bills after they are deceased.

So in his practice, he has found people who fall between that 7.5 and that 10 percent number who are in that situation.

By the way, I was supposed to meet with somebody named Regina George—Regina is from Hamilton, OH—to talk about this very tax increase. I was looking forward to it, but she couldn't make it. Do you know why she couldn't make it? Because of the very health care problems we are talking about here. Regina just had triple bypass surgery and she has a broken hip. She has some out-of-pocket expenses. She has to depend on her son who lives with her. Her out-of-pocket health costs each month are increasing. She is very worried it is going to exceed 7.5 percent but not exceed 10 percent, and she is going to find herself in a situation where she cannot deduct these health care expenses.

The Ohio AARP has done a good job of providing specific information on this to me and to other members of the Ohio delegation. That is really helpful because this is just not about numbers; this is about people. When you talk to these people and see what they are going through, I think it is something Republicans and Democrats alike should be able to come together on to solve before we leave during this session of Congress.

By the way, the data from the Internal Revenue Service shows that seniors who use this deduction end to be the oldest, the least healthy, and, by the way, disproportionately women. Think about it. To have medical expenses above the threshold means you either have to have low income, high out-of-pocket medical expenses, or both. These are not folks we should be raising taxes on, especially not now when they are feeling squeezed.

Even with Medicare, as I said earlier, seniors still spend a large percentage of their income on health care. The average Medicare beneficiary spent more than \$6,000 a year in out-of-pocket health care expenses in the last year we have information for.

The result is that some 8.3 million seniors rely on Medicaid in addition to Medicare. While this billion-dollar tax increase we are talking about today is intended to pay for part of the President's health care law, it could actually, in the long run, cause more strain on an already struggling Medicaid system. I think that is sort of the definition of pennywise and pound foolish, another reason for us to pass this legislation.

Again, it is not about numbers. It is about people, some of the most vulnerable in our communities. That is why Senator BROWN and I have introduced this legislation—it is called the Senior Tax Hike Prevention Act—to block this tax increase from going into effect at the end of the year and to extend the current 7.5-percent threshold so many seniors are counting on.

The bill is bipartisan. It is common sense. It is a chance for this body to show it does work for the most vulnerable in our society, that we stand with middle-class families who are feeling squeezed right now, and that we stand with our seniors.

I thank Senator BROWN for being an indispensable partner with me in this effort. I also thank the many supporters of our legislation, like the AARP, the American Senior Housing Alliance, and the Ohio Alliance of Area Agencies on Aging.

I urge my colleagues to join Senator BROWN, join others, join all these organizations that represent millions of seniors, and join me in blocking this billion-dollar tax increase by supporting this commonsense legislation for the sake of those seniors who are caught in the squeeze, those seniors whom we represent.

I yield back the remainder of my time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSE). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 2952

Mr. WYDEN. Mr. President, shortly I will ask unanimous consent that the Senate pass S. 2952, the Stopping Mass Hacking Act.

Colleagues, the bill is just one sentence long. What it does is simple, but in my view it is extraordinarily important. If the Senate does nothing, if the Senate fails to act, what is ahead for Americans is a massive expansion of government hacking and surveillance powers, and it will take place automatically on December 1 of this year. The legislation that I seek to pass, which has been bipartisan in the Senate, would stop this automatic expansion of government hacking and surveillance powers.

I have said it before and I want to say it again this afternoon: There is no question that it is a dangerous world out there, and I take a backseat to none when it comes to making sure our law enforcement and intelligence officers have the tools they need to keep America safe. In fact, I was actually able to add the specific provision expanding emergency powers for our government to act when there is a threat so that the government could move to protect the American people and come back and get the warrant later. But that is not what we are talking about here. What we are talking about here is a staggering expansion of government hacking and surveillance authority. These are major changes to Federal policy that are going to come about through amendments to rule 41 of the Federal Rules of Criminal Procedure.

This is the kind of major issue that traditionally comes before the Judiciary Committee. I see that two of my colleagues with whom I enjoy working very much are here. Chairman GRASSLEY is here and also Senator CORNYN, a member of the Judiciary Committee and a distinguished member of the Finance Committee. We have big policy issues that come before the Finance Committee and that come before the Judiciary Committee. We work on them. We work on them in a bipartisan fashion. Chairman HATCH and I meet every Wednesday afternoon to work on these kinds of matters. That is not what is going to happen with this massive expansion of government hacking and surveillance authority.

Colleagues, these rules are going into effect on December 1 if Congress does nothing. If Congress just says, "Oh, gee, we have other things to do," these rules will go into effect. I guarantee you there are going to be many Americans who are going to be very unhappy, and they are going to ask their Members of Congress what they did to stop this ill-advised approach.

By the way, in the other body, some of the most senior Republicans—Congressman SENSENBRENNER, the distinguished Congressman from Wisconsin, is very concerned about this issue.

The American people want security and liberty, but these amendments don't give them much of either. This

major policy change is going to make it easier for the government to hack into the personal devices of Americans and collect more information about them. They are going to do it by using computer programs called malware. The "mal," in my view, is like "malevolent." It is going to make us less safe, not more.

Allowing the government to use secret, untested malware could end up damaging not only our personal devices but the power grid or hospitals and nearly any other system connected to the Internet. Get your arms around that—hospitals in Iowa, Texas, and Oregon being damaged not because the Congress made a policy decision but because something was done automatically as a result of a change in the rules of criminal procedure. I just want to say to my colleagues that I think there will be a lot of unhappy Americans if that is the case.

The rule change says that the government can potentially search millions of computers with one single warrant issued by one single judge. There is no difference, in terms of law enforcement access, between the victims of a hack and the perpetrator himself. These changes will make people the victims twice over—once by a hacker and once again by their government. You wouldn't punish the victims of a tax scam or a Ponzi scheme with a painful audit. It just doesn't add up.

I understand that passing legislation by unanimous consent is a difficult task. These days, you can hardly get unanimous consent to drink a soda at lunchtime. But this isn't an issue where the Senate can do some kind of ostrich act and ignore the problem. By sitting here and doing nothing, the Senate will be giving consent to a substantial expansion of government hacking and surveillance authority. By not acting, the Senate would give a stamp of approval on a major policy change that has received no hearing, no oversight, and no discussion in spite of the fact that some of the most important companies in America are speaking in opposition to this.

In my view, the limits of search and seizure are unquestionably an issue for this Congress to debate. The Justice Department should not have the power to change the practical meaning of the Fourth Amendment without the people's elected leaders weighing in. Instead, the Senate ought to be doubly concerned by the fact that the administration wants to conduct proactive cyber security policy through some kind of obscure bureaucratic process like rule 41.

There aren't folks in Oregon, Texas, Iowa, or anywhere else who are following the details of something called rule 41, but I am telling everybody that they are going to be very concerned about the expansion of the government's hacking authority. So I hope my colleagues will join me in supporting this bipartisan, bicameral legislation. If this bill does not pass today

by unanimous consent, I look forward to having a hearing on this issue. I know there has been bipartisan interest in the Judiciary Committee. Leaders of the Judiciary Committee have talked about it, and I hope that hearing will take place shortly so that Americans can have a chance to understand exactly how devastating this proposal would be for them.

Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2952; that the Senate proceed to its immediate consideration; that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The majority whip.

Mr. CORNYN. Mr. President, reserving the right to object, let me start by saying to my friend from Oregon that I admire his passion and I admire his creativity at branding legislation. But for reasons I will explain, this is a commonsense procedure that doesn't relate to the Fourth Amendment—the constitutional right to be protected from unreasonable searches and seizures. This is a venue provision. This has to do with what court to go to in order to get a court order and to get permission of a court, after establishing probable cause, to conduct that search.

Senator WYDEN is seeking consent to block proposed changes in the Federal Rules of Criminal Procedure that have already been the product of thoughtful and lengthy consideration, including public hearing and deliberation. These rules, as all rules that are plied in the courts are, have been approved by the rules advisory committee. This is a group of judges, law professors, and practicing attorneys. Then they were approved by the Judicial Conference of the United States. Then, most significantly perhaps, they were endorsed by the U.S. Supreme Court. So if there were constitutional or other legal issues and concerns about this, one would think the highest Court in the land would have flagged those and declined to endorse them, but they didn't.

These changes have been approved because they are commonsense measures, as I said a moment ago, that relate solely to the appropriate venue for a search warrant. They simply make clear which Federal district court the government should go to in order to apply to a judge for a search warrant in cases involving sophisticated cyber criminals and people like child pornographers and even terrorists. Ultimately, that makes our government more efficient—by making it clear which courts can consider these requests for search warrants—and better equipped to stop these heinous crimes.

As I said earlier, these aren't substantive changes. This doesn't change the balance between privacy and security in the Fourth Amendment to the

Constitution. Rather, the government must still go before a judge and make the requisite showing in order to get a search warrant.

I can't understand who but the most radical of privacy advocates would say that—even after meeting the requirements of the Fourth Amendment before a judge establishing probable cause to get a search warrant, would say: No, we don't want that to happen. I can't imagine circumstances where we would say the Fourth Amendment is trumped by concerns about privacy, especially when the targets that must be proven up in court are cyber criminals, child pornographers, and even terrorists. We can't let that happen, and that is why these rule changes are so important.

Our colleague claims the rule changes will allow for mass hacking and forum shopping. That is the creative branding I told him I admired in the beginning. But these are the same claims that have been considered and rejected through a thoughtful, thorough process that I have already described. These changes are modernizing our laws and updating the tools government has to investigate so they can better protect us from the very real and increasing threat of cyber criminals and terrorists. The truth is, there are more things we need to do in addition to this to update and modernize our laws.

I would close by saying that I know public concerns have been raised. Indeed, I believe there have been some briefings—even today—by Federal law enforcement agencies and the intelligence community with regard to Russian activities in cyber space, even focused on our very system of electing our officials in the November 8 election. This is not a time to retreat and to allow cyber space to be run amuck by cyber criminals or people who would steal intellectual property or child pornographers or terrorists. This is a very sensible tool of venue. It just says where the search warrant can be sought, not the substantive requirements for what needs to be proven. That is preserved under the Fourth Amendment to the Constitution that protects all of us, as it should, against unreasonable searches and seizures.

So for all those reasons, Mr. President, I object to the unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

Mr. WYDEN. Mr. President, I am going to yield in just a moment to Senator DAINES, but just so we are clear in terms of my response to the distinguished Senator from Texas, he has—as some have tried to do—sought to characterize this as kind of a routine kind of matter; that this was a rule of criminal procedure of no great import and without any far-reaching consideration. I can tell you that cyber security experts around the country have spoken out virtually unanimously

about the consequences of the government accidentally breaking their computers without telling them.

I don't know of anything that is routine about this at all. Under this change, the government can search potentially millions of computers with one single warrant issued by one single judge. And, tragically, there is no difference, in terms of law enforcement access, between the victims of a hack and the perpetrators themselves. So we are talking about clobbering victims twice. First they get clobbered by a hacker and then they could get hurt by the government.

The distinguished Senator from Texas seeks to portray this as some kind of far-out kind of matter. Virtually all of the major technology companies in this country have written in opposition to this. Scores of cyber security experts have written in opposition. One of the key points they make is that you don't punish victims twice in America. You wouldn't punish the victims of a tax scam or a Ponzi scheme with a painful audit. That is what can happen here.

The idea that a change of this magnitude would be made without any debate, consideration—there has been no hearing on this matter. I know of no meetings. I would like to hear any Member of the Senate tell me about some meeting they went to. I know of no sessions where the public voice could be heard.

I am very hopeful, and I intend to come back to this floor again in an effort to make sure the public is at least brought into this. I can tell you that Senator DAINES and I represent a lot of rural hospitals, for example. Well, certainly if you heard some of what we have been told could happen in terms of what it could mean to computer systems at hospitals and other kinds of facilities, they are going to ask their Senators: What did you do about that? Why did you just let that rule go through that would damage those systems that are a lifeline for Americans?

So we are going to be back. As I mentioned before, my colleague in the other body was starting to make a fair amount of progress. JIM SENSENBRENNER, who is a very influential Member of the other body, has taken a great interest in this, as have a number of colleagues on both sides. So we will be back.

I am going to yield now. I know my colleague from Montana has been a wonderful partner in this effort, and he has some comments to make that will highlight once again the bipartisan concern about the magnitude of this change that would take place without any involvement, none, here in the Senate—no hearings, no debates, no discussions. This is a big change, and I hope we will discuss it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DAINES. Mr. President, my distinguished colleague from Oregon commented about how technology companies are concerned about what is going on. I spent over a decade in the private sector—in fact, 12 years with a cloud computing company. We had 17 offices around the world and a product in 33 different languages. I saw firsthand what it means to be engaged in the high-tech business and the challenges related to hacking. I also know firsthand the challenge our country does face when it comes to cyber criminals. We were attacked routinely in our company and had to defend those attacks off and build rock-solid, hardened firewalls to protect our customers.

Technology has made it easier for bad actors to steal our identities, to distribute malware, and to commit a whole host of other crimes, all from behind a computer screen anywhere in the world. Our law enforcement faces tremendous challenges in tracking and stopping these criminals. The fact is, our law enforcement policies need to be updated to reflect the 21st-century realities, but these policy changes need to be made through a process that is transparent and that is effective and, importantly, protects our civil liberties.

The changes to rule 41 of the Federal Rules of Criminal Procedure would allow the government to hack an unlimited number of Americans' computers, including innocent victims, with a single warrant. This rule change was approved behind the closed doors of a little-known judicial conference.

Fundamental changes to the way we allow law enforcement to execute searches need to be made, there is no doubt about that. We are in agreement that changes need to be made; however, it must be through a process that is fully transparent to the American people. We cannot give the Federal Government a blank check to infringe upon our civil liberties.

If Congress does not act, this rule change will automatically go into effect on December 1, S. 2952, the Stopping Mass Hacking Act, stops the rule change and will allow Congress to consider new law enforcement tools through—and this is very important—the full, open, transparent process they deserve.

I urge my colleagues to support this not only bipartisan but also bicameral piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

FILLING THE SUPREME COURT VACANCY

Mr. GRASSLEY. Mr. President, I come to the floor to speak about the work of the Judiciary Committee and to make a short speech on the issue of the Affordable Care Act.

Earlier this week, the minority leader came to the floor to speak about the Supreme Court vacancy. He made personal insults and threats, as he tends to do. But political stunts and childish

tantrums aside, the minority leader knows the American people deserve to have their voices heard on the future of the Supreme Court. We have made the decision that the next President will select the next Justice of the Supreme Court. We have done that because the next Justice will have a profound impact on issues that matter to all of us for decades to come, and we think the people should have a voice in that matter.

I spent the past several weeks meeting with Iowans across my State and discussing issues that concern them and what is on their minds looking forward to the election this fall. The vacancy on the Supreme Court created by the death of Justice Scalia came up time and again. At meeting after meeting during this summer, Iowans told me they appreciate the Senate's decision that the next President should nominate Justice Scalia's replacement. They understood that this nomination will affect the Court for years to come. For that reason, they want to have a voice in the matter, and we will give them that voice. That is the position the Judiciary Committee took after Justice Scalia's death. We wrote to Leader MCCONNELL on February 23 to advise him that the next President should select the next Justice. We explained it this way:

The Presidential election is well underway. . . . The American people are presented with an exceedingly rare opportunity to decide, in a very real and concrete way, the direction the Court will take over the next generation. We believe The People should have this opportunity.

Our explanation is all the more true as we find ourselves just 2 months away from the Presidential election this fall. I remain convinced that we owe the people a chance to speak their minds on the Supreme Court during this election.

I have not been surprised to hear from my fellow Iowans that they want their voices heard on the issue, and the Senate's decision to give the people this opportunity is no surprise either. We are acting in the Senate's long tradition as a check on the President's power to nominate.

I would like to take as one example, because I have given several examples in other speeches—but go back to 1968. On June 26 of that Presidential election year, President Johnson announced his nomination of Justice Abe Fortas to be Chief Justice of the Supreme Court when Chief Justice Warren declared his intentions to retire. Abe Fortas, of course, was already an Associate Justice of the Supreme Court and had been unanimously confirmed by the Senate just a few years earlier. But that confirmation didn't take place in an election year like 1968.

Within 24 hours of Justice Fortas's nomination to be Chief Justice, 19 Republican Senators issued the following statement: "[T]he next Chief Justice should be selected . . . after the people have expressed themselves in the November elections."

At the time, Democrats held the Senate, so these 19 Republican Members did not control the Judiciary Committee's proceedings on the floor. But those 19 Senators promised that if the issue was forced to a vote, they would "vote against confirming any Supreme Court nominees by the incumbent President."

These 19 Senators made this commitment immediately following the President's announcement of his intended nomination for the same reasons the Judiciary Committee has elected not to move forward the President's nomination of a successor to Justice Scalia.

Here is what Senator Howard Baker said, as one among those 19 Senators:

I have no questions concerning the legal capability of Justice Fortas . . . [but] there are, in my opinion, more important considerations at this time.

Then, to continue to quote Senator Baker:

The appointment of the Chief Justice really ought to be the prerogative of the new administration. . . . In my opinion, the judicial branch is not an isolated branch of Government. . . . It is and must be responsive to the sentiment of the people of the Nation.

Those are my thoughts exactly, and they are not just shared by Republicans. Recall of course that then-Chairman BIDEN said in 1992 that processing a Supreme Court nomination in an election year harms the nominee, the country, and the Senate. And he only spoke of coming together on a nominee in the next Congress with a new President.

I would finally like to address one more argument I have heard recently from those who support the President's nomination this election year. As we have drawn closer and closer to this Presidential election, they have tried to use the length of this vacancy as reason to move forward with this President's nomination. I have even heard some say that this is the longest Supreme Court vacancy ever. That is just plain false. I will list just a few examples.

Two vacancies to fill the seats of Justices Baldwin and Daniel lasted longer than 2 years in the 1800s. Six Supreme Court vacancies have lasted longer than a year, and two more have lasted nearly that long.

As this election draws closer by the day, the Judiciary Committee's position remains consistent. The next President will choose Justice Scalia's replacement.

Senators have made this choice before—like the 19 who declared during the 1968 election year that the next President should choose Justice Warren's replacement. They did so, just as then-Chairman BIDEN said, because that course was best for the country during a politically charged election year. The same thing is true this election year. The next President will select the next Supreme Court Justice.

OBAMACARE

Mr. President, I would like to say just a few words on the Affordable Care

Act. I would like to give a direct quote from President Obama about ObamaCare: “Too many Americans still strain to pay for their physician visits and prescriptions, cover their deductibles or pay their monthly insurance bill.”

I am glad that the President has finally heard that message. When I was having meetings in some of the 99 counties in Iowa this year, I heard plenty from families who felt duped by the promises of ObamaCare. Two families told me that their ObamaCare insurance premium was more than their house payment. Many said they did not know how they would continue to pay the premiums.

But President Obama says, in effect, “Pay no attention to rising premiums,” and then promises to give people subsidies. But 97 percent of Americans do not receive ObamaCare subsidies.

ObamaCare seems to be collapsing. Insurers are leaving the exchanges. There has been a lot of news on that lately. Premiums are increasing by double digits. In Iowa, some of those premiums increased as much as 28 percent, and I have heard a lot of States are much higher. Americans have fewer health care choices every day, despite the many promises that ObamaCare would improve just about every aspect of our health care system. Twenty percent of ObamaCare customers will be forced to find a new insurance company this fall. So much for the promise that was made in 2008 that “if you like your [insurance], you can keep it.”

And it is official: You can no longer keep your doctor. So much for the promise of 2008 that “if you like your doctor, you can keep your doctor.” The Obama administration has now even erased all references on its Web site to the words “keeping your doctor.” The link to the web page that used to say “how to keep your doctor” now says “how to pick a health plan.”

So ObamaCare seems to be collapsing. This comes as no surprise. ObamaCare has worked as well as piling 2 tons of fertilizer on a 1-ton truck, and of course any farmer can tell you, that just doesn’t work very well for a long haul.

We could enact alternative reforms aimed at solving America’s biggest health care problems. Good places to start would be cracking down on frivolous lawsuits, letting people purchase insurance across State lines, improving transparency in the health care pricing, giving States more freedom to improve Medicaid, using consumer choice to drive competition, which in turn drives down costs, and changing the Tax Code so that small businesses can provide affordable health insurance to their employees. That financial help is something that ObamaCare took away, and this is exactly what my legislation, S. 1697, the Small Business Healthcare Relief Act, will do to give those employers an opportunity to provide that help to their employees.

I have given only a partial list of policy changes so the American people can know that the failing ObamaCare program is not the only answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KING. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE ADDICTION AND RECOVERY BILL

Mr. KING. Mr. President, last March this body passed CARA, the Comprehensive Addiction and Recovery Act. Unfortunately, at the same time, we didn’t fund it. We didn’t provide any additional funds to support the treatment and recovery of people throughout the country. Since we passed that bill and failed to fund it, 15,000 people—78 a day, 3 an hour—have died because we haven’t acted on funding.

A group of us got together on March 2 and brought forth an amendment to provide \$600 million of emergency funding to give some substance to this bill, which had so much promise, and to provide support for recovery and treatment. That amendment was defeated.

Passing that bill without funding is like sending the fire department to a five-alarm fire with no water. We don’t have the means to do what has to be done to defeat this scourge, which has taken the life of a constituent or more in every State in the Union. Every one of us has lost lives in our State because of this.

Treatment works. Recovery is possible. It is hard, but the greatest tragedy—the greatest tragedy—is when someone struggles with this awful disease, is ready to seek help, seeks help, and is told: Sorry, there is a 3-month waiting list. That is unconscionable.

This is something that is taking lives right now. This isn’t an abstract, “maybe this will happen in the future.” This is right now, today, in Maine, in Florida, in California, in Arizona, in Washington, in Nebraska, in Texas—all across this country. It is the greatest public health crisis of my lifetime. Seventy-eight people a day are dying, and it is preventable.

There are three legs to the stool of dealing with this: One is law enforcement, one is prevention, and one is treatment. And without all three of those legs, the stool collapses and people die. These are real people.

I have had roundtables in Maine. I sat next to a deputy sheriff who lost his daughter and one woman who said she hoped her son would be arrested so maybe then he could get into treatment. These are regular, ordinary Americans that are being affected by this, not only young people. These are older people, middle class, middle-aged people. This is a major crisis. There are lots of aspects to it, and I can talk about the fact that opioid prescription drugs lead to heroin and other drugs, but the real subject today is funding.

I was told back in the spring: Don’t worry, we are going to take up CARA

in appropriations. We are going to have appropriations bills, and it will all be dealt with. Well, now we are talking about a continuing resolution that would not have any additional funding unless we find a way to do it, and that is my plea today.

I have written to the President; I have written to the chair of the Appropriations Committee saying: Let’s find a way to at least fund the \$181 million that is authorized in CARA. At least do that, even if we are doing a continuing resolution.

By the way, I don’t understand why we are doing continuing resolutions when the agreement has been reached on the amount of the budget, the amount of the appropriations. The Appropriations Committee has done their work. Why aren’t we doing appropriations? That is another subject.

But however we do the funding this fall, let’s deal with this terrible problem that is taking lives, tearing families apart, and deeply wounding the heart of America.

I ask the consideration of this whole body for this urgent problem and that we take real steps to deliver help to those people who are asking for it.

Mr. President, I yield the floor.

EXECUTIVE SESSION

NOMINATION OF PETER MICHAEL MCKINLEY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant bill clerk read the nomination of Peter Michael McKinley, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the McKinley nomination?

Mr. COATS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted “yea.”

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from Virginia (Mr. Kaine), and